

**POLSON CITY COUNCIL MEETING MINUTES
CITY HALL COUNCIL CHAMBERS
MONDAY, NOVEMBER 5, 2007**

ATTENDANCE: Council: Bruce Agrella, Mark MacDonald, Tom Jones, Mike Lies, Tom Corse, Fred Funke. Mayor Jules Clavadetscher presiding. City Manager Jay Henry and City Attorney James Raymond present. **Others present:** Doug Chase, Tony Porrazzo, Karen Sargeant, Earl Hanneman, Ron Shrider, Marjorie Shrider, Lee Manicke, Jim Sohm, Lou Marchello, Dorothy L. Preston, Hubert A. Dykstra, Ethan Smith, Elsa Duford, Rory Horning, Diane Speer, Andrew Speer, Mary Sale, Marilyn Troesper, Carol Davies, Bruce Campbell, Bob Williams.

Pledge of Allegiance and meeting called to order at 7:30 p.m.

APPROVAL OF PROPOSED AGENDA: Councilman Lies motioned to approve the agenda as presented with a correction to the spelling of Ron Shrider's name in agenda item 8 and the date of the minutes to be approved as October 15, 2007, number 3.A. of the Consent Agenda. Councilman Funke seconded the motion . Motion carried unanimously.

CONSENT AGENDA

- A. CITY COUNCIL MEETING MINUTES OF OCTOBER 15, 2007**
- B. MONTANA STATE NOTARY SCHOOL – ASSISTANT CITY CLERK KALA PARKER – NOVEMBER 13, 2007 – MISSOULA - \$97**
- C. GRANT WRITING WORKSHOP – POLICE OFFICER ANTHONY DENTLER – NOVEMBER 11 – 14 – BILLINGS - \$649**
- D. REAPPOINT COUNCILMAN BRUCE AGRELLA AS CITY REPRESENTATIVE ON AIRPORT BOARD – 3YR. TERM EXPIRES 2010**
- E. OCTOBER 2007 CLAIMS**

Councilman Jones motioned to approve the consent agenda items A through E. Councilman Lies seconded the motion. Motion carried unanimously.

LAKE COUNTY CHRISTMAS PARADE OF LIGHTS – DECEMBER 1 3:30 TO 6:30 P.M. – Earl Hanneman informed Council that they are proposing a change to the parade route from last year, to start at the Elks at 6th Avenue and go north on Main Street to 3rd Avenue East, then east to 1st Street East, then south on 1st Street East to the Lake County Courthouse lawn. The parade floats would start gathering at 3:30 and proceed on the parade route at 4:00 with the tree lighting ceremony planned for 5:00 p.m. Police Chief Dough Chase has ok'd the street closure proposal and the downtown businesses have given their approval through the Polson Business Association. **Councilman Lies motioned to approve the Lake County Christmas Parade of Lights street closure request on Saturday, December 1, from 3:30 p.m. to 6:30 p.m. as proposed. Councilman Funke seconded the motion. Motion carried unanimously.**

TRANSFER THE INACTIVE LIFEGUARD FUND #2398 BALANCE OF \$1,500 TO THE TRAVIS DOLPHIN DOG PARK FUND #2213: Parks Superintendent Karen Sargeant, presented Council with pictures of the progress they made with the dog park. She noted that the Boys Scouts, with John Crosby's leadership, did a good job cleaning up the dog park site and funds raised through donations were over \$5,000 for the dog park, including donations from Glacier Bank and the S&K Tribes. Additional funds will be used for the road preparation and

the fencing. It was clarified that the \$1,500 in the Lifeguard fund was an accumulation of prior year's donations before the City discontinued the lifeguard program due to increased liability and lack of sufficient funds to operate the program. **Councilman Corse motioned to approve the transfer of \$1,500 from the Lifeguard Fund #2398, which is no longer active, to the Travis Dolphin Dog Park Fund #2213, as proposed by Parks Superintendent Karen Sargeant. Councilman Funke seconded the motion. Motion carried unanimously.**

CITY'S ACCEPTANCE OF DONATION OF HALF INTEREST IN .61 ACRES COS 4014 TR2-A LESS HWY S2 NHN BAYVIEW DRIVE OWNED BY FRED PLUMMER: City Manager Jay Henry noted that the appraisal value of the entire property is \$138,113. The cost to the City would be half of the appraisal fee which is \$200 and the loss of half of the Real Estate Tax revenue, which is currently \$1,032 for the entire parcel. Mr. Plummer is offering to donate his half interest in this property to the City so that he may apply for a tax write-off. It was clarified that Bill Ingram owns the other half. **Councilman MacDonald motioned to approve authorizing the Mayor to accept the donation of Fred Plummer's half interest of property described as .61 acres COS 4014 TR2-A less HWY S2 NHN, located on Bayview Drive, and that the City will split the appraisal cost and pay Fred Plummer \$200. Councilman Corse seconded the motion. Motion carried unanimously.**

THOMAS DEAN & HOSKINS – ENGINEER'S COST ESTIMATE OF RECOMMENDED ALTERNATIVE FOR 15TH AVENUE EAST ROAD IMPROVEMENT – SHARI HALLORAN: City Manager Jay Henry, stated that this study was performed to evaluate the city's options for improving 15th Avenue East. His opinion is that the acceptable options received in this engineering study do not have a favorable cost/benefit ratio for the city at this time. The study estimates the cost of improvements in the \$700,000 to \$800,000 range and since 15th Avenue East is not a thru street it would be tough to justify the cost. The city has the study and is ready in case anything changes. He asked the Council to accept the cost estimate and take no action to improve the road. Mayor Clavadetscher noted that the City Manager suggested that it would be wise for the city to determine an inventory of streets and priorities for street improvements throughout the city. Then based on that inventory and prioritization, determine how best to spend the city's dollars. This project can go on that list and would already have a lot of information about it. He agreed that it would make sense to have a list before spending that kind of money. **Mayor Clavadetscher motioned to accept the TD&H Engineer's Cost Estimate of Recommended Alternatives for 15th Avenue East Road Improvement and take no action to improve the road at this time. Councilman Agrella seconded the motion.** Bob Williams, resident of Hillside Court, presented Mayor Clavadetscher with a letter, which he asked to be on record and has to do with the fees that were expended for the study. He read the letter as follows. I contended that Mayor Clavadetscher violated the open meeting laws with respect to this agenda item. He additionally misrepresented the scope of the studies that he was requesting on March 19, 2007. Mayor Clavadetscher's request was to provide data and studies on 15th Avenue and other streets in the area. The study fails to provide data or studies on any other street other than 15th Avenue. Additionally the study and subsequent actions and resolutions regarding the above was wrongfully represented by the Mayor's actions that the majority of the citizens in the affected area mandated a request. This is a falsehood and as such this study is wrongfully in front of council because of his actions and misrepresentations. Proper disclosure to the council and public is required by public officials in order to allow public participation and debate. Mayor Clavadetscher did not provide a petition for the area residents that would reflect a mandate or request for the study and subsequent

expenses that are before this council. He failed to provide a basis for the study in the absence of such a petition and as such is a misrepresentation that the residents in the affected area mandated or requested such a study. Most of the residents in the area feel that the Mayor is attempting to use the study to comply with a request from large developers in his administration and who desire 15th Avenue for developments. Since the residents did not request or mandate this study then the only ones who stand to benefit from such a study are the developers. These developers are not Polson residents and seek road changes that benefit their personal development at the Polson citizens expense. This would be a clear violation of this mayor's and this council's duty to act only in the best interest of its citizens and to put the burden of the development cost upon the developers and not the citizens. This mayor and this council refuse the obvious attempts by these developers to use 15th Avenue and additionally refuse to install safeguards to protect its resident citizens from potential abuses by the developers with respect to 15th Avenue. The mayor additionally failed to disclose and advertise to the public the study request as an agenda item before he introduced and asked permission of the council to proceed with the study. As such this is a violation of open meeting laws and adequate notice to the public that is required by state law. He also failed to provide the council with an agenda item public request form for approval before he proceeded with discussions concerning this study. As such this is a discriminatory act against all its citizens with respect to the demands that this current council attempted to force agenda items that come before this council. Additionally the council violated the open meeting laws by allowing this request in the middle of a scheduled council meeting that did not include a request as an agenda item. The subsequent approved council meetings will support this claim and demonstrates this special consideration without public notice. That at all subsequent meetings actions and resolutions that occurred after the mayor's misrepresentations and failure to follow open meeting laws and public notice laws must be considered null and void. Additionally the council's ability to vote and approve resolutions without written documentation is another clear violation of the lack of disclosure to the public and demonstrates clear violation concerning the public's ability to trust its elected officials and to operate in their best interest. That any failure of this council to correct and admit wrong will subject the city to further liability and expenses at the hands of Mayor Clavadetscher and this Council. According to a recent Resolution #914 created by this Council concerning assessing the cost for engineering services. The party that creates the expenses is also responsible for the subsequent costs incurred. As such it is Mayor Clavadetscher and or his developers, party or parties that incurred these expenses and not the citizens of Polson who did not request that data or study. TD&H additionally failed in the scope of work and failed to provide impact statements and associated costs for damages and lawsuits that may result from area residents concerning their proposed options or plans. Mayor Clavadetscher also fails to disclose additional auxiliary expenses he incurred without City Council oversight as part of this study. There is a party that has been personally damaged by the misrepresentations and actions taken by Mayor Clavadetscher and this Council concerning this and other issues. I protest and put this Council and Mayor on public notice that if this council approves the cost estimates for the services of TD&H under these conditions, it may add to my current list of damages that is before this council under a form of a complaint before the Montana Human Rights organization. That a notice herein is given in a public format that a complaint has been filed by myself and forwarded to the City of Polson through the Montana Human Rights organization for damages that relate to the adverse actions of this mayor and council as they relate to this issue. I demand full disclosure of this complaint, the cost that will be associated as a result of this complaint and it be added to the cost of the study. That this study, subsequent resolutions, adverse actions taken by this mayor and council and other parties are part of the pleadings associated with my complaint. As such public disclosure should be

made and become part of the discussion with the public before these expenses are approved. Mayor Clavadetscher and or this Council become liable or create a liability for the citizens of Polson. The citizens of Polson have a right to know. I demand that an ethics board be formed by the citizens at large and are appointed by an unbiased panel from outside of this council or any known parties to this jurisdiction to investigate these events. That this council provide the necessary format for this investigation to occur and to cease and desist from any further action until such panel renders an opinion. I also demand a formal written reply to my letter. **Mayor Clavadetscher** asked for additional public comments. Hearing none, he asked for a vote stating that a motion and second was made to accept the recommendation of the City Manager with regard to 15th Avenue East road improvement. **Council voted unanimously in favor of the motion.**

APPROVAL OF IMPACT FEE REVIEW COMMITTEE RECOMMENDATION FOR RON SHRIDER - \$3,310 FEE REVENUE - \$3,649 TO BE WAIVED: City Manager Jay Henry, informed Council that the Impact Fee Review Committee met on October 29, 2007 to review Mr. Shrider's request to waive impact fees. Mark MacDonald, Mike Lies, Nathan Pierce and himself (Jay Henry) met to review two requests to reduce assessed Impact Fees. Ron Shrider applied for a building permit after April 19, 2007 which was the effective date of impact fees being charged. He argued that he paid the sewer impact fee through an SID initiated in 1981 for that area. The committee agreed to recommend waiver of the sewer impact fee and other impact fees because he had been paying city taxes since 1981, and require him to pay \$3,310 in Water Impact Fees. **Councilman Corse motioned to approve the Impact Fee Review Committee's recommendation for Ron Shrider's request to waive impact fees for Sewer, Parks, Fire and related Administration Fees amounting to \$3,649 and require that he pay the Water Impact Fee of \$3,310. Councilman Jones seconded the motion. Motion carried unanimously.**

CITY MANAGER COMMENTS: Jay Henry provided photos he took in the last two weeks of various city projects including the New Booster Station on Skyline, repaving Hillcrest Drive, repaving 4th 5th and 6th Avenues. He noted that Mayor Clavadetscher was on site supervising in most of the pictures and welcomed by the City staff.

He reminded Council that the Council/Mayor Workshop to be conducted by Ken Weaver, to discuss the Council and City Manager responsibilities under the new charter form of government will be held on Sunday, November 18th, 9 a.m to 3:00 p.m. at the Library Meeting Room. (The date was changed from November 17th to allow for full attendance.)

He was also asked to provide a Library update to the Council. He sated that in the last two weeks a letter was received from Marilyn Trosper, Librarian, stating that the Library Board decided that the Sandpiper Gallery lease would not be renewed. He was told that there would be some public comments about that.

Jay Henry commented that the Travis Dolphin Dog Park is a great use for the property being developed, it's a great project, and it will be a wonderful asset for the city.

He mentioned that the Library Board will be meeting tomorrow night and they will be discussing a proposal to rent the library building from the city which currently is no cost to them. He asked Council to think about what they would consider to be a fair lease arrangement.

PUBLIC COMMENTS: Mary Salle, Director of the Sandpiper Art Gallery, stated that twenty years ago she came before the City Council to ask to lease their current space in the Library building, and received their approval. She thanked the City for twenty marvelous years, with very reasonable fees, which has allowed them to give tens of thousands of dollars to Lake County students. The Sandpiper Gallery received a very nice letter from the Library terminating their lease on March 6, 2008. They voted to cooperate and look for another space because the Library needs more space and its not their (Sandpiper's) building. After thanking the Council and with City Attorney James Raymond's opinion that the Library Board has the power to terminate their lease, they are looking for a new building and suggestions are welcome from the City of Polson. With that said, they are getting an awful lot of feedback and she spoke to Mr. Henry about it and he didn't know what to do about her concerns and told her that it was a matter for the Council. What they are hearing not just from their group but the general public, is that the Library is a city building and paid for by City dollars. There's a question if it is wise for the City of Polson to take on the expenses that Sandpiper Gallery pays now through their lease payment, for rent utilities, repair and upkeep. There's a question whether the public should have a say about this action. Ought not there be a discourse about what that City property should be used for, should there be just certain services provided. It's not their place to determine what city property is used for but it is the Council's. The building was modeled after the Bigfork Cultural and Art Center many year's ago. Many donations were given with the understanding that there would be space for art. They put in close to \$20,000 to the City to finish the building when they ran out of money, so they feel they have a stake in this. The number of high end housing developments in the area will likely use the internet to link to library services and she questioned if they would expect a viable art center in downtown Polson. Five years ago they had 35 members and it has doubled since then, imagine if they had 300, making Polson a destination art town. They have the only professional gallery space that exhibits student work, faculty art, and not for sale art. Is that important to Polson and the region since it is an economic draw to the city. It isn't huge at the moment but they are estimating they will have 300 members in ten years. There's no question the library needs more room. After the Library Board voted to take over the community meeting room, the Sandpiper board voted to encourage public meetings in their workshop space which they could make permanent. They are not asking for a decision tonight but for Council to think about these things and to tell them what they and their constituents think. They would feel better about this seismic change in the use of this public building if there was some discussion in front of City Council. She thanked Council.

Mayor Clavadetscher asked for further comments. None were made.

Meeting adjourned at 7:30 p.m.

Jules Clavadetscher, Mayor

ATTEST: _____
Aggi G. Loeser, City Clerk