

# **RESOLUTION NO. 975**

**A RESOLUTION CREATING SPECIAL IMPROVEMENT DISTRICT NUMBER 42, TO IMPROVE AND PAVE CERTAIN PORTIONS OF MAIN STREET, INCLUDING CURB, GUTTER AND SIDEWALK, AND TO INSTALL INFRASTRUCTURE, WITHIN THE CORPORATE LIMITS OF THE CITY OF POLSON:**

Whereas, the City of Polson maintains within its boundaries a certain Main Street, as shown on maps and plats depicting the same; and,

Whereas, Main Street is an eighty-foot-wide right-of-way, with numerous privately owned businesses along the length of the same; and,

Whereas, the City of Polson has determined that the public convenience and safety requires that the water main line located within the said right-of-way should be replaced and upgraded; and,

Whereas, a group of interested citizens has proposed that, since the City of Polson intends to undertake street closure for construction to replace the water main in Main Street, a concomitant and useful adjunct project might be making improvements to other areas of Main Street; and,

Whereas, the said group of interested citizens have devised, in connection with overall project plans, an estimate of the costs necessary to carry the same into effect, and have petitioned the Council to undertake the process necessary to form a Special Improvement District for such purpose; and,

Whereas, the City of Polson supports the project, and towards it will contribute the whole cost of removing old water main and installing a replacement and upgrade, to include the cost of repaving that certain portion of pavement disturbed by such water main construction operations; and,

Whereas, the City of Polson caused to pass Resolution No. 955, denominated as a Resolution of Intent to Create the Special Improvement District hereinafter created, and caused legal notice of same to be had upon the owner of each property proposed to be included in the District in the manner provided by law; and,

Whereas, upon such notice, fewer than fifty percent (50%) of the owners of the property proposed to be included in the District objected thereto in writing; and,

Whereas, public hearing was held, and the question of creating the Special Improvement District taken up by the City Council from time to time; and the City Council has heard from and taken into account the testimony and evidence presented thereupon, the same forming in part the terms hereof; and,

Whereas, The City of Polson deems it necessary to order, establish and create, and the City Council of the City of Polson, Montana does hereby create, a Special Improvement District within and along and encompassing those certain portions of Main Street, the area and boundary of such Special Improvement District which is hereafter particularly described.

**NOW, THEREFORE, BE IT RESOLVED THE CITY COUNCIL OF THE CITY OF POLSON:**

**SECTION 1:** That Special Improvement District No. 42 is hereby created, together with and subject to all terms and conditions herein appearing.

**SECTION 2:** That the general nature of the improvements contemplated in this Resolution are as follows:

- a.) Location of the project: Five blocks of Main Street, Polson, Montana, extending from 2<sup>nd</sup> Avenue (U.S. Highway 93), south to 7<sup>th</sup> Avenue, Including cross streets (four). The project extends north 10 feet into 2<sup>nd</sup> Avenue and south 10 feet into 7<sup>th</sup> Avenue. The project includes the entire 80-foot width of Main Street. Therefore, the project is 80 feet in width (east and west) by 1,840 feet in length (north and south).

- b) Subject to the success of attendant and conditional fundraising efforts addressed elsewhere herein, the location of the project may extend only to the north line of the intersection of 5<sup>th</sup> Avenue and Main Street.
- c) The general nature of the improvements contemplated in this Resolution are:  
The project is to replace and upgrade the existing domestic water mainline under Main Street from 2<sup>nd</sup> Avenue to 7<sup>th</sup> Avenue with new PVC pipe and connect this new water mainline to the curb stop of each of the properties on either side of main street, and to include replacing the service line to the interior of each building served, together with streetlights and other improvements pursuant to the Plan adopted by the Streetscape Committee as the same has been amended from time to time, and to replace existing curb, gutter and sidewalks on both sides of main street for the entire north/south length of the project, excluding paved areas of cross streets. The existing street paving is to be replaced with new paving for the entire north/south length of the project. To the extent the proposed Plan contemplates certain items of chattel property; this Special Improvement District excludes items of chattel property as a matter of law. The final Plan improvements are subject to engineering plans as the same may later appear, and further subject to the additional provisions appearing herein.
- d.) The City shall also pay all costs necessary to furnish and install a ¾ inch service connection line from its main to the curb stop for each affected property, and from the curb stop to a point within a building receiving water service. Any landowner may request and install a larger service line, for example, to service a current or future fire sprinkling system, but in such case, the difference in cost shall be reimbursed by the property owner to the City. The curb stop, regardless of size, shall be paid for by the City.

SECTION 3: Those parcels of real property included in the said Special Improvement District shall be as follows, and that minor irregularities in the legal descriptions herein, if any, are insufficient to obviate the Intention expressed herein:

Any and all parcels, with the exception of those parcels exempt by law, fronting on The Main Street right of way along the length of the project as hereinabove described, as the same may appear on the map or plat thereof on file and of record in the office of the Clerk and Recorder of Lake County, Montana, all according to Exhibit A hereto.

SECTION 4: The estimated Cost, including all engineering fees, is approximately \$1,450,000.00 (one million four hundred fifty thousand dollars). The costs are to be assessed against the parcels denominated as lying within the district and described in Section 3 hereof as follows:

- a.) Up to \$50,000.00 (fifty thousand dollars), approximately \$18.50 per lineal foot of adjoining, assessable parcels which are included in the Special Improvement District or less as may eventuate, pro rata, in order to fund engineering services and finalization of the Plan. The City will pay the same out of its Sidewalk Fund, to be repaid by the Special Improvement District Assessments without interest. If, subject to the further conditions herein, the Plan goes forward to completion, then in that event the adjoining, assessable parcels in the Special Improvement District will be assessed an additional \$675,000 (six hundred seventy five thousand dollars), approximately \$247 per lineal foot of adjoining, assessable parcels.
- b.) The City of Polson will contribute the cost of re-paving that certain portion of the pavement disturbed by such water main replacement and upgrade, in cash or in kind, at the option of the City, towards the paving portion of the project.
- c.) If either the City or another agency or instrumentality are able to secure grants and/or donations of cash towards completion of the project in an amount of at least \$644,000.00 (six hundred forty-four thousand dollars), then and in that event, the Special Improvement District assessment of the additional \$675,000 of Section 4(a) shall be assessed against the adjoining, assessable parcels in the District. If such grants and/or donations do not reach the level specified herein, or its percentage equivalent of final project costs as estimated by the engineers, then and in that event the assessment shall not exceed the original \$50,000.00 set forth in Section 4(a), above.
- d.) The assessment of the \$50,000.00 set forth in Section 4(a) shall be liened against every parcel in the District, for a period not to exceed 20 years.
- e.) Any additional, conditional assessment towards costs to complete the project set

forth in Section 4(a) shall be assessed only upon passage by the City of an additional resolution reciting that the conditions set forth herein for such assessment have been met.

- f.) Excepting the initial assessment of Section 4(a), the assessments recited herein are conditional and subject to actual costs as the same may later appear, and in any case payment of which is to be spread over a period of not more than twenty (20) years, though the period may be less, and at no greater than seven (7) % rate of interest, said repayment terms subject to definition with the conditions of purchasing the necessary monies by the City at interest at the time the monies are borrowed or bonded to complete the project, if ever. The City specifically resolves and herewith gives notice that it intends to go forward with the improvements and assessments herein detailed, subject to the conditions stated herein, so long as the actual estimated project costs do not exceed the anticipated cost by a factor exceeding twenty (20) percent.

SECTION 5: Several parcels comprising altogether some 267 total lineal feet adjoining Main Street are exempt from participation in the Special Improvement District. The exempt parcels include those owned by the City of Polson, Lake County, the State of Montana, Veterans of Foreign Wars, and the American Legion. For all assessable parcels, the method by which the costs of the improvements will be assessed against the property in the district is on the basis of lineal feet fronting on Main Street right-of-way within the boundaries of the district, on an equal basis for the total cost of the improvements, subject to and reserving therefrom the City of Polson’s cost and expenses in connection with those certain portions of the work recited herein.

SECTION 6: That upon passage and approval of this Resolution, the City Clerk shall forward a copy of the same to the Clerk and Recorder of Lake County, Montana and to its Treasurer, together with any other or further instruments necessary to impose and collect the levy against all parcels set forth in Exhibit A hereto.

PASSED AND APPROVED this 1<sup>st</sup> day of December, 2008.

Lou Marchello, Mayor

ATTEST:

Aggi Loeser, City Clerk

State of Montana )  
 : ss.  
County of Lake )

On this \_\_\_\_\_ day of December, 2008, before me, the undersigned, a Notary Public for the State of Montana, personally appeared **Lou Marchello** and **Aggi Loeser**, personally known to me to be the Mayor and the City Clerk of the City of Polson, Montana, the Municipal Corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for the State of Montana  
Residing at \_\_\_\_\_ Montana  
My Commission expires: