

CITY OF CONRAD

413 SOUTH MAIN

CONRAD, MONTANA 59425

PHONE: 406-271-3623 FAX 406-271-5602

www.cityofconradmt.com

This institution is an equal opportunity provider

JAMIE MILLER
Mayor

Aldermen

KARLA BREIDING

A.DAVID CATES

NATHAN

HUNSUCKER

RONALD WIDHALM

DAVID ZIMBELMAN
Public Works Director

HILARY RITTER
Finance Officer

CODY SHAW
City Judge

ERNEST PADILLA
Police Chief

DANIEL JONES
City Attorney

MINUTES OF A SPECIAL MEETING OF
THE CITY COUNCIL OF THE CITY OF
CONRAD, COUNTY OF PONDERA, STATE
OF MONTANA, HELD AT GUSTAFSON LAW OFFICE
ON FEBRUARY 28, 2022

The City Council of the City of Conrad, County of Pondera, State of Montana, met in special session at the Gustafson Law Office, Conrad, MT on February 28, 2022 at 4:00 p.m.

Present: Mayor Miller; Alderman Karla Breiding, David Cates, Nathan Hunsucker & Ron Widhalm; Finance Officer Agnes Fowler; Chief Padilla; Attorney Daniel Jones.

Absent: None

Guest present: Officer Andy Lund

The meeting was called to order by Mayor Miller at 4:11 p.m.

Attorney Jones noted the meeting was being recorded.

Public Comment: None was heard.

The purpose of the meeting was discussion on action on matters that related two employees (Chief Ernest Padilla and Officer Andy Lund) that necessarily implicated those employees' individual privacy rights. It was determined pursuant to Mont. Code Ann. §2-3-302(3) the demands of individual privacy clearly exceeded the merits of public disclosure. It was determined the meeting would thereafter be closed unless Chief Ernest Padilla and Officer Andy Lund waived their individual privacy rights. Chief Ernest Padilla stated that he knowingly waived his individual privacy rights. A brief Council recess was taken to allow Attorney Daniel Jones to instruct Officer Andy Lund as to his individual privacy rights, his option to waive his individual privacy rights, and the implications of so doing. Officer Andy Lund thereafter stated that he knowingly waived his individual privacy rights. The meeting thereafter continued as an open meeting.

The reason for the special meeting was then explained.

City Attorney Daniel Jones reviewed council's decision in November of 2021 to cease investigating Chief Padilla and Officer Lund on behalf

of POST. Attorney Jones explained that in November 2021 the question was posed to City Council whether to cease the investigations based upon Legal Opinion 2021-02. The investigations were being conducted by Conrad in response to allegations of wrongdoing that were filed by former Acting Chief of Police Dustin Kirkbride not with the City of Conrad but instead with Montana Public Officer Safety Board ("POST").

Jones explained Legal Opinion 2021-02 which was submitted to POST in November, on behalf of the City, in response to POST's letters demanding the City investigate the allegations. Legal Opinion 2021-02 determined that POST could not delegate to the City the obligation to investigate allegations of wrongdoing that were submitted to POST and not submitted to the City because POST's obligation was to investigate.

In January of 2022 POST issued letters directly to Chief Padilla and Officer Lund. Said letters were notices that POST had itself initiated investigations into the allegations of wrongdoing. POST's letters offered Chief Padilla and Officer Lund the opportunity to respond to the allegations. Mayor Miller had then requested the City Attorney to assist Chief Padilla and Officer Lund in responding to the allegations. Mayor Miller also requested the City Attorney review the investigative materials to determine whether anything contained therein could be useful in generating responses on behalf of the officers.

Having reviewed the investigative materials Attorney Jones is now recommending it be used to respond to POST. However, because the City Council had previously voted to not use the investigative materials, a new motion and vote must be made. Thus, the purpose of the special meeting is to request council approval for the use of the investigation materials.

Mayor Miller asked City Attorney Jones if investigative materials could be used without council approval. Attorney Jones responded yes, with some parameters. Council asked if it were okay to use these materials 'as is' or if the investigation would have to be completed first, Attorney Jones responded there are more than enough materials to use as is. Council member Breeding asked how this relates to the City. Attorney Jones explained the City is advocating for Chief Padilla and Officer Lund as employees of the City regarding their actions on behalf of the City. Council member Cates asked if the use of the investigative materials requires a motion. City attorney Jones and Mayor Miller affirmed.

Following such:

Motion by Alderman Cates, Second by Alderman Hunsucker to approve the use of the investigative materials (investigation done by Northern Lights Investigations, LLC). In further discussion council woman Breeding asked Attorney Jones if the proposed actions were being done for the good of the City as a whole. Attorney Jones confirmed that after reviewing the investigative materials it was his opinion that disclosing them in the manner proposed would be in the best interests of the City.

Motion Carried Unanimously.

In other business to come before council further discussion ensued between those in attendance. *(The full taped recording of this Special Meeting is on file at City Hall).*

No Executive session was necessary.

Other Business: None

Motion by Alderman Hunsucker and second by Alderman widhalm to adjourn.

Motion Carried Unanimously

There being no further business to come before the Council, the meeting adjourned at 4:52 p.m.

Mayor *Jamie Miller*

Attest:

* _____
Finance Officer

** finalized after resignation of Finance Officer Fowler*