

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FOR JANUARY 6, 2009

The Regular Meeting of the Council of Commissioners was called to order Wednesday, January 6, 2010, in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by the Chief Executive, Paul Babb.

ROLL CALL

11 present, 1 absent, Commissioner Moodry was excused

PRAYER

Commissioner Hall led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF DECEMBER 23, 2009.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of December 23, 2009. The motion carried with a unanimous verbal vote.

ITEMS NOT ADDRESSED ON THE AGENDA

None

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None.

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reported the following:

- Congressman Rehberg addressed local elected officials in Council Chambers regarding Senator Testor's Jobs Recreation and Wilderness Bill, and informed Council of Congressman Rehberg's Web site for any comments or questions.
- Proposals for the Veteran's Home are due on February 5, 2010. A letter of support will be requested from Council. The new site will be selected by the end of next week
- Met with Pat Dudley and Ray Rogers today regarding the appropriation of \$1.6 million from the Department of Defense for a Healthcare Simulation Training Center. An informational meeting regarding the center will be held on January 22, 2010 at Montana Tech.
- Sea Cast will move into its building by the end of this month.

SECTION I PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING THE UPDATE TO BUTTE-SILVER BOW’S PARA-TRANSIT PLAN FOR DISABLED TRANSPORTATION. (Communication No. 09-775 being held in the Committee of the Whole) **Proof of publication was noted and placed on file.**

Gary Keeler reported the following:

- A Public Hearing regarding Butte-Silver Bow’s Para-Transit Plan for disabled transportation is an annual hearing, which is required by the Americans with Disabilities Act.
- Butte-Silver Bow provides this service through a contract with AWARE.
- Butte-Silver Bow approves the clients for the service through a committee, which includes Todd Hoar with The Developmental Disabilities Council.
- There are 182 people are registered for the service.
- In 2009 10, 883 rides were given.
- The Service provides a great benefit for people with disabilities.
- Referrals come from the Social Service Agencies.

Chief Executive, Babb opened the Public Hearing at 7:40 p.m. and called for proponents.

On the third and final call, there being none, Chief Executive, Babb called for opponents.

On the third and final call, there being none, Chief Executive, Babb closed the Public Hearing at 7:41 p.m.

SECTION II INVITATION FOR BIDS

SEALED BIDS ARE HEREBY INVITED FOR THE PURPOSE OF PURCHASING A LOADER MOUNTED SNOW BLOWER. (Communication No. 09-764 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Dave Cunningham, Operations Manager, Butte-Silver Bow Public Works Services Division opened three bids from the following:

- | | | |
|----|-------------------------------------------|-----------|
| 1. | HCL Equipment Inc., Billings, MT | \$ 99,950 |
| 2. | Kois Brothers Equip. Co., Great Falls, MT | \$ 82,910 |
| 3. | Titan Machinery Inc., Missoula, MT | \$ 84,920 |

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer the bids to the Public Works Department and report back to Council.

SECTION III CONSENT AGENDA

- A. 1. COMMITTEE OF THE WHOLE MEETING REPORT
- 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
- 3. JUDICIARY COMMITTEE MEETING REPORT
- 4. PUBLIC WORKS COMMITTEE MEETING REPORT
- 5. RULES COMMITTEE MEETING REPORT

B. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda Chief Executive Babb called for any friendly amendments or segregations.

Commissioner Shaw called for a segregation of Section II, Communication No. 09-756 of the Judiciary Committee Report (page 11).

It was then moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 5 with the exception of the Judiciary Report and Section B, Items 1 through 8.

Segregation – Communication No. 09-756

Theresa R. Hocking, RN/CIC/MSN/MPH, Health Officer, requesting Council's authorization for the Chief Executive to sign seven contracts between Butte-Silver Bow and private entities.

Commissioner Shaw stated the Judiciary Committee had originally recommended to approve contracts one through six and to hold contract seven in abeyance until the Board of Health approved it. She explained the Board of Health has now approved contract seven and Council should approve it.

It was moved by Commissioner Shaw, seconded by Commissioner Foley and carried by a unanimous verbal vote to concur with Communication No. 09-756 and place on file.

SECTION IV COMMUNICATIONS TO BE READ AND ACTED UPON

1. [10-03](#) Paul Babb, Chief Executive, requesting Council's concurrence in the appointments to the Butte Natural Resource Damage Council (BNRC).

Chief Executive Babb stated the six appointments came from various groups throughout the community, and are people who haven't served on a community board before. He further stated these people have no hidden agendas and should serve the community well. The other sixty-one applications have been forwarded to the Governor for his consideration of the three appointments he will make.

Commissioner O'Leary applauded Chief Executive Babb on his comment about fresh faces on a community board.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to concur with the request of Communication No. 10-03 and place on file.

2. 09-626 Bob Rowling, Parks and Recreation Director, requesting Council's authorization for the issuance of a Developer's Packet for the disposition of surplus parkland located adjacent to Block 9 of the Hillcrest Addition, Section 28, T3N, R7W (Parcel No. 1092650).

Commissioner Morgan stated he has been in discussions over the past several days with the developer and the adjacent homeowners for this project. Commissioner Morgan explained he felt it would be best to hold this communication in abeyance until problems could be worked out to the benefit of both parties.

It was moved by Commissioner Palmer and seconded by Commissioner Morgan to hold Communication No. 09-626 in abeyance in the Committee of the Whole pending a meeting with both parties.

Commissioner Schultz asked Commissioner Morgan to clarify if he was talking about the residents of Hillcrest or the parties who wished to purchase the land.

Commissioner Morgan stated he was talking about the group who wished to purchase the parkland.

Commissioner Schultz asked Commissioner Morgan if he was only talking about the group that wants to buy the land, and not the adjacent homeowners who had come before Council to voice their opposition to the project.

Commissioner Morgan replied the homeowners who had opposed the project are part of the group in the discussions.

Chief Executive Babb stated the leaders of the group have assured them they have a unified force. The developers have stated they are willing to come to a compromise, and County Attorney Joyce has also been involved in the meetings in order to make certain everything is being done properly from a legal standpoint. Both parties have agreed to “come to the table” in order to reach a compromise that will work for both groups. The meeting will take place next week and will be set up with local government acting as the mediator.

Commissioner O’Leary asked if the proposal being considered would meet legal requirements.

Chief Executive Babb replied in order to meet the expectations of all parties, both proposals will most likely need to be withdrawn and then re-advertised. He explained the developer is looking at a different access road, which will be an extension of Ottawa. The developer has obtained an easement with the Sisters of Charity and is looking at putting in a walking trail. The only need for the parkland is to have a utility easement for water and sewer. Legal requirements have been investigated as well. The landowners also have an interest in the parkland in order to control access and motorcycle traffic. Initial conversations with the landowners indicate they are behind the new proposal by the developer.

Commissioner Shaw asked if the Developer Packet Protocol Process would be an issue.

Chief Executive Babb replied this could be worked out. Neither party, at this point, wishes to withdraw their proposal and this is why a meeting with both parties to obtain trust is important. A two-thirds majority vote by Council is necessary to approve either proposal and it is unlikely this would happen. If both proposals were denied, the parkland would revert back to Butte-Silver Bow’s ownership. Chief Executive Babb explained the best approach is to try to work out the issues with both parties and in the future decide if the proposals will need to be withdrawn. A meeting with both parties will be scheduled for next week.

Commissioner O'Leary stated numerous amendments to Ordinance No. 09-11 were made by the Committee of the Whole sitting as Judiciary at last week's meeting. A fresh copy containing these amendments should have been provided for Council's consideration.

Chief Executive Babb stated clean copies would be distributed to the Commissioners for their review.

Commissioner Schultz asked if there had been another suggested change, which would amend the Ordinance.

Commissioner Shaw stated there was an amended version before the Committee of the Whole sitting as Judiciary last week, which was green-lined. This was the official amended version that everyone had a copy of. The amended version was approved and seconded.

Commissioner Schultz stated another portion needed to be added to the ordinance and Council did not have that copy.

Commissioner Morgan stated he and Commissioner O'Leary also had made changes, which were not on the green-lined copy.

County Attorney Joyce stated all amendments presented to Council at last weeks' meeting were prepared in a clean copy.

Commissioner Schultz asked if Council should vote on the Ordinance if they were not sure all changes were included.

Chief Executive Babb explained Council will have another chance to make certain all amendments and changes have been made in two weeks at the final reading.

County Attorney Joyce stated she agreed with Chief Executive Babb's statement and if there are additional changes to be made, they can be made before final passage.

Commissioner Morgan stated as the last meeting was recorded, the motions would be in the record.

County Attorney Joyce replied changes reflected to the final ordinance to be passed should contain all of the amendments that were made to the original ordinance including the changes made on the Council floor.

Commissioner Schultz stated he was not comfortable voting on something that could be changed in the future.

Commissioner O'Leary stated the ordinance should have been on a separate committee report (Committee of the Whole sitting as Judiciary) and he didn't see it on a separate page. He suggested Council not take action tonight on this ordinance.

County Attorney Joyce replied the ordinance was on the Committee of the Whole Report on page eight.

Commissioner O’Leary stated as long as Council had time to review the new copy of the ordinance there should not be a problem.

Commissioner Shaw asked County Attorney Joyce to clarify if this ordinance remains in Committee of the Whole sitting as Judiciary until final passage.

County Attorney Joyce replied this was correct. The Committee of the Whole will be sitting as Judiciary for the purpose of passing this ordinance.

Commissioner O’Leary stated a separate committee page should be used for proper procedure when the Committee of the Whole sits as a different committee.

County Attorney clarified there would be no problem in using a separate page in this circumstance.

Commissioner Frasz questioned if the ordinance remains as part of Judiciary in the Committee of the Whole whether Council would need to have a clean copy before next week’s meeting, and if it could be voted on at the Regular Meeting in two weeks.

Chief Executive Babb replied the ordinance would be discussed at the Committee of the Whole sitting as Judiciary, passed there, and would be placed on the Consent Agenda to be passed at the next Regular Meeting.

County Attorney stated the ordinance would go back to the Committee of the Whole sitting as Judiciary next where any additional amendments could be made. It will come back to full Council in two weeks for final reading and passage.

The motion passed with a roll call vote of 8 yeas and 3 nays.

2. **COUNCIL BILL NO. 09-14**
ORDINANCE NO. [09-14](#)

AN ORDINANCE CREATING A NEW CHAPTER IN THE BUTTE-SILVER BOW MUNICIPAL CODE TO BE NUMBERED CHAPTER 2.89 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) AND ENTITLED “ANIMAL SERVICES BOARD”; PROVIDING FOR AN ANIMAL SERVICES BOARD; REPEALING ORDINANCE NO. 376 AND SECTIONS 2.88.010 AND 2.88.020 OF THE B-SB MC AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. 09-14, Ordinance No. 09-14 be placed on second reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas and 0 nays.**

3. **COUNCIL BILL NO. 09-15**
ORDINANCE NO. [09-15](#)

AN ORDINANCE CREATING A NEW CHAPTER IN THE BUTTE-SILVER BOW MUNICIPAL CODE TO BE NUMBERED CHAPTER 2.87 OF THE BUTTE-SILVER BOW MUNICIPAL

IPAL CODE (B-SB MC) AND ENTITLED “COMMUNITY ENRICHMENT DEPARTMENT”; PROVIDING FOR AN ANIMAL SERVICES DIVISION; AND A COMMUNITY DECAY DIVISION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. 09-15, Ordinance No. 09-15 be placed on second reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas and 0 nays.**

4. **COUNCIL BILL NO. 09-16**
ORDINANCE NO. [09-16](#)

AN ORDINANCE AMENDING CHAPTER 2.10 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED “PERSONNEL SYSTEM”; AMENDING SECTIONS 2.10.010, 2.10.030, 2.10.040, 2.10.050, 2.10.060, 2.10.070 AND 2.10.080 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); DELETING ALL REFERENCE TO PERSONNEL AND RENAMING PERSONNEL TO HUMAN RESOURCE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. Ordinance No. 09-16 be placed on second reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas and 0 nays.**

SECTION VIII

ORDINANCES AND RESOLUTIONS
FINAL READING

1. **COUNCIL BILL NO. 09-12**
ORDINANCE NO. 09-12

AN ORDINANCE REPLACING CHAPTER 13.04 OF THE BUTTE-SILVER BOW MUNICIPAL CODE REGULATING THE USE OF THE BUTTE-SILVER BOW METRO SANITARY AND STORM SEWER DISTRICT NO. 1 SANITARY WASTEWATER TREATMENT SYSTEM; PRIVATE WASTEWATER DISPOSAL; CONSTRUCTION OF PUBLIC AND PRIVATE SEWERS; INDUSTRIAL DISCHARGERS; PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. 09-12, Ordinance No. 09-12 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas and 0 nays.**

2. **COUNCIL BILL NO. 09-13**
ORDINANCE NO. [09-13](#)

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 93 AND CHAPTER 13.08 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “SERVICE CHARGES FOR USE OF WASTEWATER TREATMENT SYSTEM”; ADDING A NEW SECTION TO BE NUMBERED 13.08.055; ADDING ADDITIONAL COMMERCIAL/INDUSTRIAL FEES FOR HIGH LOADING AND HIGH FLOW AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. 09-13, Ordinance No. 09-13 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas and 0 nays.**

3. **COUNCIL RESOLUTION NO. 09-89**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE ALEXANDER MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 09-89 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas and 0 nays.**

4. **COUNCIL RESOLUTION NO. 09-90**

RESOLUTION RELATING TO \$750,000 LIMITED GENERAL OBLIGATION BONDS (DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM), CONSISTING OF \$416,300 TAXABLE SERIES 2010A BOND AND \$333,700 SERIES 2010B BOND; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 09-90 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas and 0 nays.**

ADJOURN

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 8:25 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER