

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

FOR NOVEMBER 4, 2009

The Regular Meeting of the Council of Commissioners was called to order Wednesday, November 4, 2009, 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 Foley arrived late.

PRAYER

Commissioner Hall led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF OCTOBER 21, 2009.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of October 21, 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:

- Good news at the NRD meetings in regards to Greenway Project for 2.3 million, The Big Hole Transmission Line for 2.6 million and the Waterline Distribution Line for 2.6 million were unanimously approved.
- Working closely with management team to address ways to deal with vandalism that recently happened at Copper Mountain.
- Still meeting on the Veterans Home proposals, which are due on February 5, 2010.

SECTION I PUBLIC HEARING

TO HEAR PUBLIC COMMENT ON THE DEVELOPER'S PACKET PROPOSALS FOR (SURPLUS) PARKLAND ADJACENT TO BLOCK 9, HILLCREST ADDITION, SECTION 28, TOWNSHIP 3 NORTH, RANGE 7 WEST. (Communication No. 09-656 being held in the Committee of the Whole) Proof of publication was noted and placed on file.

Dori Skrukrud, Community Development, stated the property was originally dedicated as parkland, determined to be surplus and is located in the Southwest corner of the Hillcrest Addition. The land is comprised of .63 acres. The Community Development Department issued a Developers Packet and requested redevelopment proposals. Two proposals were received.

1. The adjacent homeowners, Loraine Mahoney, Jim and Judy Wonnacott, and Ed and Lea Stergar, proposed combined the parcel into their adjoining residential properties.
2. Nistler Properties, LLC with Rex Leipheimer as the representative, proposed to develop the surplus parkland into a public right-of-way and open space.

Commissioner Schultz asked Ms. Skrukrud the amount of the purchase proposals.

Ms. Skrukrud replied the minimum purchase price is \$12,260. The adjoining landowners have proposed this price and Nistler LLC has proposed a purchase price of \$1 with the balance being made up with the investments that would be used to redevelop the property and create the open space and public right-of-way.

Chief Executive, Paul Babb opened the Public Hearing at 7:40 p.m. and asked for public comment for or against either of the proposals.

1. Douglas Stordahl, 3001 Century Circle stated he was speaking on behalf of Nistler, LLC.
2. Linda Byer, 3475 St. Ann stated she was speaking as an opponent of the Nistler proposal.
3. Judy Wonnacott, 2290 Skyway stated her home is next to the alleyway that would proceed to the new subdivision and she is a proponent of the development. She explained the development would be good for Butte and would encourage young families to move to the area.
4. Jori Leyba, 1840 Garfield stated she and her husband own lot 1, block 2 of the Bella Estate Subdivision. She further stated she supports the proposal made by the residents of the Hillcrest Subdivision.
5. Dennis Crowley, 321 W Galena expressed his support of the Nistler proposal.
6. Tad Dale, 3465 St. Ann stated his support of the proposal by the adjacent landowners.
7. Guy Ossello, 30 Primo stated his support of Nistler Investments and said he didn't feel the residents of Hillcrest were in favor of any type of growth in the area.
8. Ryan Underwood, 20 Lumberjack Road, stated his support of Mr. Nistler and Mr. Leipheimer's project.
9. John Forkum, 2623 Nettie, President of Southwest Montana Building and Construction Trades Council in Butte stated he wished to go on record as supporting economic development growth in the Butte area. Mr. Forkum further stated this project would not bring economic development to Butte as the subcontractors and workers will be brought in from out of town. The Building Trades Council urged the Council of Commissioners to reject the Nistler proposal and approve the proposal submitted by the Hillcrest homeowners.
10. Matt Nistler, 81 Jefferson River Road, Willow Creek, Montana explained his construction company allows anyone to compete and bid on his projects. Mr. Nistler stated objectivity should be the only component of the decision-making process, not feelings and emotions, which tend to cloud the issue. He asked Council to make their decision with

- the entire community in mind, and that the decision be economically and socially responsible.
11. Chris Hafer, 6048 Porter stated his support of the Nistler development.
 12. Gino Leyba, 1840 Garfield stated his concern regarding traffic issues if the development is approved. He is concerned the extra traffic will shorten the life expectancy of the current roads.
 13. Keith Johnston, 14 Bittersweet stated his support of Nistler Homes and Rex Leipheimer.
 14. Rick LeBreche, 1835 Texas explained he objects to the Development because, in his opinion, Nistler Construction hires out-of-town laborers.
 15. Stephanie Core, 3405 S Hillcrest stated she is in favor of the new development. She explained she feels Butte needs the economic development.
 16. Dan Kaluza, 3400 Vista Lane stated his opposition of the new development. Mr. Kaluza explained 125 people live in the Subdivision and have been paying taxes since 1960 and should not have their rights stomped on by a private developer.
 17. Rich Henningson, 3515 St. Ann stated he did not feel the proposal by Nistler Construction was smart development. He also commented the materials and laborers came from Bozeman.
 18. Ed Stergar, 3492 Ridgeway stated his support of the proposal by the adjacent landowners.
 19. Dan Brown, Brown and Associates, stated his company is doing the design and engineering for the Nistler Development. He explained that a professional engineer from Helena, who was hired to study the development, stated there is no safety issue and the traffic from the development would not be noticeable. Mr. Brown further stated there would be no water or sewer problems based on the engineering studies his company has done.
 20. Judge Steve Kambich, 3470 Parkway stated his concern about safety if the new development is allowed.
 21. Bev Crowley, 119053 Juniper Acres Road stated her support of Matt Nistler.
 22. Brett Vick, 3450 St. Ann voiced his opposition to the proposal by Rex Leipheimer and Matt Nistler.
 23. TJ Harrington, 2693 Blacktail spoke as a proponent for the Nistler-Leipheimer project. Mr. Harrington stated he understood the concerns about safety, but felt the engineers and the traffic studies had addressed these issue.
 24. Rex Leipheimer, explained this issue is about a Developer's Packet for a piece of parkland. He stated he felt his proposal was the best one for Butte-Silver Bow, and they were not asking for variances or for the rules to be bent.
 25. Michelle Miles, 36 N Lake Drive spoke as a proponent of the Nistler-Leipheimer project.
 26. Dan Strizic, 2245 Fairway spoke as a proponent for the adjacent landowners and read a statement from Loraine Mahoney. Ms. Mahoney statement was also as a proponent of the proposal by the adjacent landowners.
 27. Chris Curran, 3125 Burlington stated he was a proponent of Rex Leipheimer and Matt Nistler, and was a potential owner of one of the twenty-eight new homes.
 28. Mike McLeod, 3030 Atherton stated he is a proponent of development in Butte and supports the Leipheimer-Nistler development.

Chief Executive, Babb closed the Public Hearing at 9:05 p.m.

Chief Executive, Babb announced at 9:05 there would be a five minute break.

ROLL CALL 9:10 P.M.

12 present, 0 absent.

SECTION II PUBLIC HEARING

TO HEAR PUBLIC COMMENT ON THE 2009 BULLETPROOF VEST GRANT FUNDS RECEIVED FROM THE U.S. DEPARTMENT OF JUSTICE AND AMEND THE 2009-2010 BUDGET TO CREATE AUTHORITY FOR GRANT MONIES. (**Communication No. 09-688 being held in Committee of the Whole**) **Proof of publication was noted and placed on file.**

Sheriff John Walsh commented he supports the project and stated the project has been on going for many years.

Chief Executive Babb opened the public hearing at 9:11 p.m. and called for proponents. On the third and final call, there being none, he called for any opponents. Again, there was no response, so he closed the public hearing at 9:12 p.m.

SECTION III PRESENTATION COMMUNICATION NO. 09-690

Mike Button, Project Director, Butte-Silver Bow Schools Emergency Preparedness Project (BSSEP), requesting time on the November 4, 2009 agenda for a presentation regarding BSSEP's request for proposals and Council's authorization for the Project's Leadership Team to review the proposal and make recommendations to Council.

Michael Button explained the Readiness and Emergency Management for Schools grant with the following:

- The name of the project is Butte-Silver Bow Schools Emergency Preparedness Project.
- Intent of grant is to help schools in the community, both public and private, set up comprehensive emergency operation plan.
- Project is an eighteen month proposition.
- Training will be offered to the staff members of the School Districts.
- Will be following the four phases of emergency management; prevention, mitigation preparedness, response and recovery.
- Work efforts will be coordinated with County and State agencies.
- County Superintendent of Schools office is the lead on this project.
- County serves as fiscal agent and lead applicant for the project.
- Plans are being coordinated with the Homeland Security guidelines.
- Public health aspects for infectious disease protocols are being considered.
- Food safety procedures are also being considered.
- Each school building will be assessed as to the risks.
- Teams in each building will be set-up.
- Recommendation from Local and State agencies will be taken.
- A Four-day training session for teachers will be offered.
- Training drills will be conducted.
- Grant pays for personnel including Mr. Button as a half-time project director, a project evaluator, and a lead training and technical assistance provider.

Segregation of Communication No. 09-465

Dan Harrington, D.D.S. Chairman – BSB Board of Health, requesting approval for BSB Chemical Dependency Services to establish Tri-County Addictive Services.

Commissioner Palmer made the following statements regarding Communication No. 09-465:

- Item has been long talked about.
- Council would like to support the Board of Health to expand services into a tri-county area, but too many questions and legal concerns have come up.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to not accept the grant from the state and deny the request of Communication No. 09-465.

Commissioner Frasz made the following statements:

- Supports Commissioner Palmer’s recommendation.
- County Attorney, Head of Budget and Finance as well as the Personnel Manager all agree there are issues against putting this contract into place.
- All the liability falls onto Butte-Silver Bow.
- As a Health Board member, thought the contract presented had been reviewed and met all requirements of the County. Found out this was not the case in this issue.
- Need to go back to square one and do this properly before going forward with this program.

Commissioner Shaw voiced her agreement with Commissioner Frasz. She thanked County Attorney, Joyce for her due diligence and doing the best she could to try to put together enough pieces of the puzzle to make this work. She stated, in her opinion, this is a perfect example of where the end clearly does not justify the means. Several things came up that were troubling (such as contracts that were never approved by Council). Ms. Shaw explained the bottom line is liability, and it made her very nervous to think what could have happened if the contract had been approved.

The motion passed with a unanimous verbal vote.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed with a unanimous verbal vote to place Communication No. 09-465 on file.

Segregation of Council Bill No. 09-09 Ordinance No. 09-09

Commissioner Shaw explained the reason she segregated Council Bill No. 09-09 is because an error in calculation was discovered by the County Attorney’s office. A special meeting of the Judiciary Committee was called and amendments were made according to the County Attorney’s recommendations to the ordinance and these amendments were approved. It was necessary to make these amendments before the final reading of the ordinance.

It was moved by Commissioner Shaw and seconded by Commissioner Lee to approve the amended version of the ordinance Council Bill No. 09-09 and move to final reading.

The motion passed with a verbal vote of 11 yeas and 1 nay.

2.

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

AN ORDINANCE AMENDING SECTION 2 OF BUTTE-SILVER BOW ORDINANCE NO. 134 AND SECTION 2.04.010 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); ADJUSTING THE ANNUAL SALARIES OF THE CHIEF EXECUTIVE, COUNTY ATTORNEY, SHERIFF, CLERK AND RECORDER, TREASURER, ASSESSOR, CITY JUDGE, JUSTICE OF THE PEACE, AUDITOR, SUPERINTENDENT OF SCHOOLS, CLERK OF THE DISTRICT COURT, CORONER AND MEMBERS OF THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee Ordinance No. 09-09 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yeas and 2 nays.**

Commissioner Schultz stated he would be willing to forego his raise if the other elected officials would do the same, in the spirit of helping the people of Butte in these tough financial times.

Commissioner Palmer announced, as next Wednesday is a holiday, Veteran's Day, the Committee of the Whole Meeting will be held on Tuesday, November 10, 2009. He stated there will also be a Special Meeting before the Committee of the Whole to canvas the votes of the Walkerville election.

Commissioner Frasz announced the Fire Advisory Board will meet on Tuesday at 5:00 p.m.

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 9:45: pm.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER