

B. COMMUNICATIONS

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

There being none, 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 4 Section B, Items 1 through 27.

SECTION II COMMUNICATIONS TO BE READ AND ACTED UPON

10-39 Marian Jensen, Vice Chair Butte-Silver Bow Democratic Party, requesting Council consideration of three nominees to fill the vacancy in House District 74 and for Council's selection of Representative Art Noonan's replacement.

Chief Executive Babb announced each candidate would be asked to stand before Council to answer questions, and further asked the Commissioners to ask the same questions of each candidate.

Chief Executive Babb asked Ms. Shea if she would be withdrawing her name from consideration.

Debbie Shea, 100 Moon Lane, apologized for the confusion regarding her withdrawal. She explained a law had been brought to her attention and rather than risk her job as a lobbyist and put Butte-Silver Bow in a comprising situation, she felt it would be best to withdraw her name for consideration as Representative for House District 74. Ms. Shea thanked Council for their time and for their public service.

George Grosebeck, 351 Passmore Canyon Road stated it would be an honor to fill his son's position for the remaining term as Representative for House District #74. He explained he was not a politician, but felt he would be able to learn. He stated he is from Butte, is a Special Education Teacher and a musician, and loves Butte.

Commissioner Palmer asked Mr. Grosebeck what he would hope to accomplish if there were a Special Session.

Mr. Grosebeck replied it depended on what came up. He stated he would do his best for the District and the people of Butte-Silver Bow.

Commissioner Foley asked Mr. Grosebeck what area of the budget he would protect if there were a Special Session.

Mr. Grosebeck replied he didn't want to see any cuts, however he understood some cuts would be necessary. He further stated he would not do anything to embarrass Butte.

Commissioner Schultz asked Mr. Grosebeck his feelings regarding a sales tax.

Mr. Grosebeck replied he would not support a sales tax.

Commissioner Lee asked Mr. Gorsebeck his understanding of the position and what skills he would bring to the position.

Mr. Grosebeck replied he didn't really know. He stated he was a good listener and would do research to find out about the position.

Commissioner Hall asked Mr. Grosebeck if he were chosen for the position, would he run for the position in the next election.

Mr. Grosebeck replied he was not interested in running for the position after the term expired.

Josh Peck, 1001 W Park, Chairman of Butte-Silver Bow Democratic Central Committee, explained the Democratic Central Committee felt it was important to pick candidates who have no interest in running for the office in the next election. This gives whoever runs a chance to run on their own merits and have the opportunity to succeed and take the seat rightfully. He further explained he had no interest in running for the seat in the next election, but would like to use his knowledge and experience of the Legislature to fill the seat for the time being.

Commissioner Palmer asked Mr. Peck what he would hope to accomplish if there were a Special Session.

Mr. Peck replied he has a good working relationship with the delegation and would be able to learn what needs to be done from them. He stated he would do whatever is best for Butte.

Commissioner Foley asked Mr. Peck what area of the budget he would protect if there were a Special Session.

Mr. Peck replied there were some areas of the budget that couldn't be touched, and he would do everything he could to protect education as well as health and human Services. He stated he would not support a sales tax and would keep a watchful eye on local property taxes.

Commissioner Schultz asked Mr. Peck if he would support a sales tax.

Mr. Peck replied he would not support a sales tax.

Commissioner Lee asked Mr. Peck his understanding of the position and what skills he would bring to the position.

Mr. Peck replied the position required being an ambassador for Butte, and the person picked to fill the interim position will be passing on knowledge of the seat. He also explained whoever is picked will have a voting seat at the Democrat Platform and Rules Convention this summer. This person will represent Butte and Butte's issues on the Democratic Platform for the next two years. Mr. Peck stated he has knowledge of the legislature, was a page several times and knows the process well. He also stated he was knowledgeable about what is currently happening in Butte.

Commissioner Hall asked Mr. Peck if he would run for the seat in the next election if chosen.

Mr. Peck replied he has no interest in running for the position at the present time.

Chief Executive Babb asked Council to vote for the candidate of their choice and sign their name to the ballot. He announced a five-minute recess after which the Clerk of the Court would announce the outcome.

ROLL CALL 8:00 P.M.

11 present, 1 absent, Commissioner Shaw was excused.

Chief Executive Babb announced seven votes were cast for Mr. Peck and four votes were cast for Mr. Groesbeck.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed with a unanimous verbal vote to accept the results of the vote and notify the Secretary of State Josh Peck will be the replacement for Representative of District 74 and place the communication on file.

10-48 Dave Fawcett, Chair Archives Construction Technical Review Committee, requesting Council's authorization for time on the February 3, 2010 agenda for a presentation to provide an update on the Archives Project.

Tom Burkhart, Opportunity, stated he is the owners representative for the Butte-Silver Bow Public Archives Renovation Project. He explained he would be making the presentation for Mr. Fawcett. Mr. Burkhart thanked those who took the tour of the Archives earlier in the evening. He stated major construction progress has been made at the Archives. The infill has been closed in, the roof has been put on, details are being completed and the vaults are nearing completion. Major progress has been accomplished throughout both sides of the buildings inside as well as outside. Mr. Burkhart further stated once the building was completed the people of Butte-Silver Bow will have something to be very proud of.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed with a unanimous verbal vote to place Communication No. 10-48 on file.

10-52 Dave Cunningham, Operations Manager-Services Division, requesting Council's authorization for the Chief Executive to sign a contract with Think One for the design and construction of the Clark Park Splash Park.

Dave Cunningham, Operations Manager-Services Division stated the following:

- A meeting was held at Commissioner Hall's residence prior to the bid opening and concerns regarding the Splash Pad encroaching on the skating rink were cited.
- Meetings were held with Butte-Silver Bow's architect and a decision was made to place the Splash Pad outside skating rink perimeter.
- Think One has assured Butte-Silver Bow there will be no issues with the placement of the Splash Pad outside the skating rink.
- Think One was the low bidder and has met all the specifications.

Commissioner Sheehy stated he had received many calls regarding moving the Splash Park and wanted to know if the Park were to be moved somewhere else, would the price be the same.

Dave Cunningham replied there is no way to answer this question as the infrastructure of the location chosen would need to be analyzed first.

Commissioner Moodry commented he had also received many phone calls and letters in reference to the Splash Park. He stated there is a lot of controversy regarding the placement of the Park and he feels there must be something wrong with the process. He asked Dan Dennehy, Public Works Director, his opinion of the process used to choose the location for the Splash Park.

Dan Dennehy, Public Works Director, explained the process used with the following statements:

- The Park and Recreation Department and the Parks and Recreation Board performed a thorough investigation as to where the Splash Feature should be located.
- Council directed the Board to move fairly quickly in order to have the Master Plan adopted.
- The Parks and Recreation Board wanted to put something on the ground for the enjoyment of both children and their parents this year.
- The Board chose Clark's Park because the location brings together several neighborhoods.
- He believes the project should be moved forward and hopes Council will agree.
- There was a spirited debate during the budget process as well as neighborhood meetings.
- The contractor has experience in Splash Park Developments and Mr. Dennehy stated he has confidence in this contractor.
- He would like to move forward with the Splash Park at Clark's Park and have it ready by July 4, 2010.

Commissioner Schultz commented the process should start and end with being careful. He stated a survey by The Montana Standard questioned if the Splash Park should be located at Clark's Park, and 62% of 1,200 respondents replied no. He further stated all the citizen's of Butte-Silver Bow are paying for the Park and he feels it would be prudent to wait a few weeks and hold a public hearing in order to learn what the people of Butte-Silver Bow want and where they want the Park located. Commissioner Schultz stated he has been opposed to the Park from the beginning and feels the money could be better spent elsewhere.

Commissioner Hall stated it is impossible to please everybody and there will be controversy wherever the Park is located. It is time to do something positive for the children of Butte-Silver Bow.

Commissioner O'Leary listed the following projects for which Butte-Silver Bow had trouble with placement, but were successful because a process was followed:

- (1) The new landfill, (2) the mine waste repository, (3) the water treatment plant, (4) the new jail and (5) the skateboard park.

Commissioner O'Leary also listed the following projects that were unsuccessful because a process was not followed:

- (1) The closing of the Columbia Gardens, (2) the carousel sitting and (3) the tram placement.

Commissioner O'Leary further explained the proper process was followed in regards to the Splash Park and there was plenty of opportunity for the public to express their feelings. The bids have been opened and awarded and it makes sense to move forward.

Commissioner Foley stated Commissioner O'Leary was correct and the correct process had been followed. He expressed his opposition to the Splash Park from the beginning, but felt some positive steps had been taken, i.e. the backstop will be replaced, the parking lot will be removed, and the Park will not encroach on the skating rink. It has also been promised the project will be kept under budget. He further stated he felt this should move forward and be voted on.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to concur with the request of Communication No. 10-52 and authorize the Chief Executive to sign a contract with Think One for the design and construction of Clark's Park Splash Park and place on file.

A substitute motion was made by Commissioner Schultz and seconded by Commissioner Moodry to hold Communication No. 10-52 in abeyance pending a public hearing to hear comment regarding where the Splash Park should be located.

Commissioner Lee explained he had attended most of the Master Plan meetings regarding the Splash Park as well as the meetings at Clark's Park. He stated no one voiced opposition of any type to the Park being located at Clark's Park. Commissioner Lee further stated he fully supports Clark's Park and feels it is a great location for the Splash Park.

Commissioner Schultz commented 800 people responded to a poll by the Montana Standard in opposition to the location of the Splash Park and again requested a public hearing be held.

The substitute motion to "hold communication No. 10-52 in abeyance pending a public hearing to hear comment regarding where the Splash Park should be located" failed with a roll call vote of 4 yeas and 7 nays.

The original motion to "concur with the request of Communication No. 10-52 and authorize the Chief Executive to sign a contract with Think One for the design and construction of Clark's Park Splash Park and place on file" was passed with a roll call vote of 7 yeas and 4 nays.

10-60 George Everett, Executive Director Mainstreet Uptown Butte, requesting Council's authorization to become the entity that sponsors the 2010 Butte St. Patrick's Day celebration.

George Everett, Executive Director Mainstreet Uptown Butte, stated Mainstreet Uptown Butte was withdrawing their request to become the entity that sponsors the 2010 Butte St. Patrick's Day celebration and have it considered at another time. The reason for the withdrawal came from members who felt the timing was too close to the event. Mr. Everett stated Mainstreet Uptown Butte will support any organization willing to take on the entire event, not just the parade, and feels there is a need for a sponsoring entity for St. Patrick's Day.

Commissioner Palmer stated he had a discussion with Mollie Kirk from Butte Celebrations and wanted to set up a meeting next week with all interested parties.

George Everett replied Mainstreet Uptown Butte has been drawn into St Patrick's Day in several ways, i.e. additional security, garbage clean up, assisting with the organization for the Edmonton Piper's, and would be happy to attend any meeting concerning Uptown Butte.

Commissioner Moodry stated he had received a call from John Perino, President of Silver Bow Tavern Association, asking to be involved in the process concerning the St. Patrick's Day celebration.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed with a unanimous verbal vote to place Communication No. 10-60 on file.

SECTION III

SUSPENSION OF THE RULES FOR FINAL PASSAGE

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas and 0 nays to suspend the rules for the purpose of passing Council Resolution No 10-07 by waiving Subsection 7 of Rule XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.

COUNCIL RESOLUTION NO. 10-07

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA, FOR A HOME INVESTMENT PARTNERSHIPS (HOME) GRANT. It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-07 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas, 0 nays.

SECTION IV

**ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

1. **COUNCIL RESOLUTION NO. 10-06**

A RESOLUTION ESTABLISHING CRITERIA FOR THE CLASSIFICATION OF UNSOLD TAX-DEED LANDS; DETERMINING THAT CERTAIN PROPERTY SHOULD BE HELD IN CITY-COUNTY OWNERSHIP BECAUSE OF COMPELLING PUBLIC INTEREST; ORDERING CERTAIN PARCELS OF REAL PROPERTY TO BE HELD IN CITY-COUNTY OWNERSHIP AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. **COUNCIL RESOLUTION NO. 10-08**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL 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.

3. **COUNCIL RESOLUTION NO. 10-09**

A RESOLUTION AUTHORIZING THE COUNCIL OF COMMISSIONERS TO ACT AS THE GOVERNING BOARD TO GOVERN THE ADMINISTRATION AND OPERATION OF THE MELROSE REFUSE DISPOSAL DISTRICT, A “SPECIAL DISTRICT”, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

Commissioner Palmer announced the County Attorney has requested four Commissioners be appointed to sit on a review board regarding a possible lawsuit settlement.

County Attorney Joyce stated the lawsuit is James Co. versus Butte-Silver Bow, which is a takings case involving the park located on the corner of Granite and Henry.

Commissioners Palmer, Lee, Schultz, and Granger volunteered to be on the board.

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 8:50 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER