

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

**FEBRUARY 20, 2008**

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **February 20, 2008** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

## **ROLL CALL**

12 present, 0 absent

## **PRAYER**

Commissioners were led in prayer by Commissioner Lee.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 6, 2008**

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Minutes of the Regular Meeting of February 6, 2008.

## **ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES**

None

## **PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

Nicole Vagaza, 212 N. Crystal Street, came to the microphone said that as of January of this year she is the Public Relations Coordinator for the Butte Citizens for Preservation and Revitalization. On their behalf she read a statement in regards to the status of the demolition of the Longfellow School.

## **CHIEF EXECUTIVE'S REPORT**

Chief Executive Babb reported that he and Commissioner O'Leary went to Washington, D. C. and met with the Congressional staff and our lobbying group. Back in Butte we met with the Field Representatives for all of our congressional folks. We gave them a perspective laying out all of the requests that Butte has. If anybody would like to see the information that we presented please come to my office. The projects that we are talking about is the Big Hole diversion dam, the

government buildings and painting projects, curb and gutter, drainage on the east side.

We have started our planning process with the NRD and are working through what our priorities will be this coming grant cycle. That has been increased to twenty million dollars.

Tomorrow and Friday there is the no adverse affect concerning the Big Hole River. That is a seminar that is taking place out at Fairmont. It will start tomorrow and also run on Friday.

He announced he was going to move 4 items up on our agenda from Section VIII under Communications to be Read and Acted Upon. We will deal with the first four items and then go back to the beginning of our agenda.

1. 08-109 Paul Babb, Chief Executive, requesting concurrence in appointment of Kelly J. Lee as a probationary entry level fire fighter. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to concur with the request in Communication No. 08-109 and appoint Mr. Kelly J. Lee as a probationary entry level fire fighter.**
2. 08-110 Paul Babb, Chief Executive, requesting concurrence in appointment of Zachary W. Osborne as a probationary level fire fighter. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal to concur with the request in Communication No. 08-110 and appoint Mr. Zachary W. Osborne as a probationary level fire fighter.**
3. 08-111 Paul Babb, Chief Executive, requesting concurrence in in appointment of Kurt Sheehan as a probationary entry level fire fighter. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by unanimous verbal vote to concur with the request in Communication No. 08-111 and appoint Mr. Kurt Sheehan as a probationary level fire fighter.**
4. 08-112 Paul Babb, Chief Executive, requesting concurrence in appointment of Kahl Clark as a probationary entry level fire fighter. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to concur with the request in Communication No. 08-112 and appoint Mr. Kahl Clark as a probationary level fire fighter.**

**It was then moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to place Communications 08-109, 08-110, 08-111, and 08-112 on file.**

Chief Executive Babb then called on Fire Chief Jeff Miller to introduce the four candidates. Chief Executive Babb offered his congratulations to the four and they were given a round of applause.

**SECTION I PUBLIC HEARING**

**FOR THE PURPOSE TO SOLICIT COMMENTS REGARDING AN AMENDMENT TO THE FY 07-08 BUDGET BY INCREASING THE HEALTH DEPARTMENT’S BUDGET AUTHORITY WITH UNANTICIPATED REVENUE TO BE RECEIVED FROM THE MONTANA STATE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES ADDICTIVE AND MENTAL DISORDERS DIVISION FOR THE DEVELOPMENT AND IMPLEMENTATION OF ENVIRONMENTAL PREVENTION WITH AN EMPHASIS ON YOUTH (Communication No. 08-92 being held in Committee of the Whole) Proof of publication was noted and placed on file.**

Dan Haffey, Director of Prevention Services with Butte-Silver Bow Health Department came to the microphone and said they had applied for a 1.5 million dollar grant which will encompass environmental prevention in five counties. We were awarded the grant and have gone through the process of hiring five additional prevention coordinators, a project coordinator and a data specialist to help us oversee the whole process.

Chief Executive Babb opened the public hearing at 7:40PM and called for any proponents. On the third and final call there being none he called for any opponents. Again there was no response so he called the public hearing closed at 7:41 PM.

**SECTION II PUBLIC HEARING**

**FOR THE PURPOSE TO SOLICIT COMMENTS REGARDING AN AMENDMENT TO THE FY 07-08 BUDGET BY INCREASING THE HEALTH DEPARTMENT’S BUDGET AUTHORITY WITH UNANTICIPATED REVENUE TO BE RECEIVED FROM THE MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR THE IMPLEMENTATION OF THE MONTANA COMPREHENSIVE CANCER CONTROL PLAN. (Communication No. 08-93 being held in Committee of the Whole) Proof of publication was noted and placed on file.**

Rick Larson, Director of the Public Health Department, gave the staff report. For this fiscal year it will be about \$35,000. The purpose of this contract is to

implement the Montana Comprehensive Cancer Control Plan. We will develop partnerships with our primary care givers, the doctors and nurses, with the hospital and with the private clinics to develop cancer screening protocols and to try to make sure that everybody in Butte-Silver Bow has the cancer screen available if they wish to take part in that. We expect that this will be an ongoing program for many years.

Chief Executive Babb opened the public hearing at 7:42 and called for any 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 7:43 PM.

**SECTION III**

**INVITATION FOR BIDS**

**SEALED BIDS FOR THE PREPARATION OF THREE BRIDGE INSTALLATION LOCATIONS, REMOVAL AND DISPOSITION OF EXISTING STREAM CULVERTS AND PLACEMENT OF THREE 24 FEET WIDE BY 36 FEET LONG BRIDGES OVER BLACKTAIL CREEK IN THOMPSON PARK. (Communication No. 08-89 being held in Committee of the Whole) Proof of publication was noted and placed on file.**

John VanDaveer, Director of Public Works, opened the following three bids:

|   |                                    |                   |
|---|------------------------------------|-------------------|
| 1. Rand J. Johnson Construction<br>Anaconda, MT | North Bridge Bank Preparation      | \$5,790.00        |
|   | North Bridge Installation          | \$5,790.00        |
|   | South Bridge Bank Preparation      | \$5,790.00        |
|   | South Bridge Installation          | \$5,790.00        |
|   | Lion’s Den Bridge Bank Preparation | \$5,790.00        |
|   | Lion’s Den Bridge Installation     | <u>\$5,790.00</u> |
|   | TOTAL                              | \$34,740.00       |
| 2. TCA Inc.<br>Bozeman, Mt.                     | North Bridge Bank Preparation      | \$15,800.00       |
|   | North Bridge Installation          | \$7,500.00        |
|   | South Bridge Bank Preparation      | \$15,800.00       |
|   | South Bridge Installation          | \$7,500.00        |
|   | Lion’s Den Bridge Bank Preparation | \$15,800.00       |
|   | TOTAL                              | \$69,900.00       |
| 3. Jim Gilman Excavation                        | North Bridge Bank Preparation      | \$5,500.00        |
|   | North Bridge Installation          | \$5,000.00        |
|   | South Bridge Bank Preparation      | \$5,500.00        |
|   | South Bridge Installation          | \$5,000.00        |
|   | Lion’s Den Bridge Bank Preparation | \$5,500.00        |
|   | Lion’s Den Bridge Installation     | \$5,000.00        |
| TOTAL   | \$31,500.00                        |                   |

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer the bids to the Public Works Department for review and report back.**

## SECTION IV

### INFORMATIONAL REPORT COMMUNICATION NO. 08-99

Mary M. McMahon, Clerk and Recorder – Election Administrator, requesting time on the agenda of February 20, 2008 to provide Council information of the 2008 elections and office staffing issues. (**Communication No. 08-99 being held in Committee of the Whole.**)

Mary McMahon, Clerk and Recorder and Election Administrator told the Commissioners that the filing for office continues until the 20<sup>th</sup> of March. She said they would have 12 to 14 M100 Precinct counters in the Civic Center on Election Day which they hope will greatly reduce the number of hours that they are all here on Election night. She has been advised that Dolores Weller will be retiring in March after 25 years with the county. It is imperative that that position be replaced prior to the end of the fiscal year. She will be requesting a public hearing for the staffing replacing to occur immediately after her exit. I will be requesting that her payout of her estimated 650 hours be handled through the non-departmental lined activity as approved for termination compensation in the budget. Also, my Chief Deputy, Pam Gilman, has decided she is going to resign and she has given me notice that she will be leaving right after the General Election.

Chief Executive Babb then called on Jeff Amerman, Budget and Finance Director for his comments. Mr. Amerman advised Council the non-departmental lined activity, which is the Employee Associated Costs, is a fund that is utilized during emergency situations as deemed by the Chief Executive. That fund currently has a little under \$21,000.00. It is not available. There is a transfer request for \$11,000.00 that is to cover the payouts for the firemen that we just replaced. That was deemed an emergency situation. It's a public safety issue. The other \$9-10,000.00 has already been earmarked for the Parking Director. The Parking Commission submitted last week a communication to Chief Executive that Bob Sullivan's payout be paid from there. There are no funds available. If there is a payout to be done on this one you would actually have to increase the Clerk and Recorder's budget in which case there would be a public hearing and Council does have the authority to increase any budget

**It was moved by Commissioner O'Leary, seconded by Commissioners Lee and carried by a unanimous verbal vote to place Communication No. 08-99 on file.**

## SECTION V

### INFORMATIONAL REPORT COMMUNICATION NO. 08-120

George Everett, Executive Director, National Folk Festival, requesting time on the 2/20/08 agenda to provide an update on the planning to bring the National Folk Festival to Butte July 11-13, 2008.



2. 08-3 John Harrington, Building Official, submitting petition on behalf of Jack and Helen McCloskey to close and vacate a portion of Hancock Street. **Recommendation: schedule public meeting.**

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregations or “friendly amendments”. Commissioner O’Leary called for “friendly amendments” to Petition No. 08-2 and Petition No. 08-3 the change the recommendation on both to “refer to Public Works Committee.”

**It was then moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4 and Section B, Items 1 and 2 and Section C, Items 1 through 23.**

**B. COMMUNICATIONS**

**SECTION VIII COMMUNICATIONS TO BE READ & ACTED UPON**

5. 08-117 Bruce W. Meyer, Department of Environmental Quality, regarding application for a motor vehicle wrecking facility license by Rob Gee for 705 E. Iron St.

Dan Powers, Assistant Health Director at the Health Department, came to the microphone and explained these types of facilities acquire vehicles either by buying them from individuals or owners or people just drop them off. They park these vehicles out and make those available for sale to the public. These vehicles are not parted out in time they have a crusher come in, the vehicles are crushed and then they are sent to recycling facility. This facility is an existing facility. Summit Valley Auto used to be there. This will just be a continuation of that type of operation. The Planning Department has no problem with it being there. It is zoned for heavy industrial. The DEQ and Bruce Meyer have not problems associated with it as well.

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to adopt a resolution in support. Commissioner O’Leary stated that the resolution should be for suspension of the rules for March 5, 2008 meeting and that is a part of this motion. Commissioner Lee seconded. It carried by a unanimous verbal vote.**

**SECTION IX**

**ORDINANCES AND RESOLUTIONS –  
REFERRED TO JUDICIARY**

**1. COUNCIL RESOLUTION NO. 08-7**

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING BUTTE-SILVER SPECIAL TRUST FUND RESERVES TO THE GENERAL FUND IN THE BUTTE-SILVER BOW PLANNING DEPARTMENT TO COMPLETE CAPITAL IMPROVEMENTS TO THE ALUMNI COLISEUM ON THE MONTANA TECH CAMPUS ON BEHALF OF THE AMERICAN LEGION BASEBALL ORGANIZATION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION X**

**ORDINANCES AND RESOLUTIONS –  
FINAL READING**

**1. COUNCIL BILL NO. 08-1  
ORDINANCE NO. 08-1**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 195 AND CHAPTER 15.10 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “FIRE CODE” AND AMENDING SECTION 15.10.060, B-SB MC; RESTRICTING THE USE AND DISCHARGE OF FIREWORKS TO THE SAME PERIODS WHEN FIREWORKS CAN BE SOLD IN THE STATE OF MONTANA ; PROVIDING FOR EXCEPTIONS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 7 yeas and 5 nays to place Council Bill No. 08-1, Ordinance No. 08-1 on final reading and passed having been deemed fully read at length. Voting nay were Commissioners Sheehy, Moodry, Mulcahy, Foley and Coleman.**

**2. COUNCIL BILL NO. 08-2  
ORDINANCE NO. 08-2**

AN ORDINANCE AMENDING SUBSECTION 9.01 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SECTION 10.32.010(I) OF THE BUTTE-SILVER BOW MUNICIPAL COD (B-SB MC) ENTITLED “STOP SIGNS”; PROVIDING THAT TRAFFIC PROCEEDING ALONG IRON STREET SHALL STOP BEFORE ENTERING THE INTERSECTION OF IRON STREET AND NEVADA STREET AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and**

**0 nays to place Council bill No. 08-2, Ordinance No. 08-2 on final reading and passed having been deemed fully read at length.**

**3. COUNCIL BILL NO. 08-3  
ORDINANCE NO. 08-3**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 345 AND CHAPTER 2.20 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "LAW ENFORCEMENT DEPARTMENT"; AMENDING SECTIONS 2.20.280, 2.20.290 AND 2.20.300, B-SB MC; CHANGING THE DIVISIONS IN THE LAW ENFORCEMENT DEPARTMENT TO DETENTION, OPERATIONS AND INVESTIGATION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with roll call vote of 12 yeas and 0 nays to place Council Bill No. 08-3, Ordinance No. 08-3 on final reading and passed having been deemed fully read at length.**

**4. COUNCIL RESOLUTION NO. 08-5**

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE UNITED STATES DEPARTMENT OF JUSTICE TO THE CITY AND COUNTY OF BUTTE-SILVER BOW TO BE EXPENDED ON BULLETPROOF VESTS FOR LAW ENFORCEMENT OFFICERS PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 12 yeas and 0 nays to place Council Resolution on Final Reading and passed having been deemed fully read at length.**

**SECTION XI ORDINANCES AND RESOLUTIONS -  
SUSPENSION OF THE RULES**

**It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 12 yeas and 0 nays to suspend the rules for the purpose of passing Council Resolution No. 08-8 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 with reference to the Judiciary Committee.**

**1. COUNCIL RESOLUTION NO. 08-8**

A RESOLUTION REQUESTING PROSECUTORIAL ASSISTANCE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 08-8 on final reading and passed having been deemed fully read at length.**

**ADJOURN**

**There being no further business to come before the Council, it was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.**

The meeting adjourned by 9:26 PM

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CHIEF EXECUTIVE

ATTEST:

\_\_\_\_\_  
CLERK AND RECORDER