

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

**MAY 6, 2009**

The Regular Meeting of the Council of Commissioners was called to order Wednesday, May 6, 2009 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 and 0 absent.

## **PRAYER**

Commissioner Lee led the Commissioners in prayer.

After the prayer, Chief Executive invited the Boy Scouts in the audience to lead the Commission in the Pledge of Allegiance.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF APRIL 15, 2009**

**It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Minutes of the Regular Meeting of April 15, 2009**

## **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 that HB645 for the stimulus money is awaiting the Governor's signature. He said that we have been working closely with our Public Works Department so that we can make sure that we move forward with getting our project out to bid. We are looking at paving Main Street from Front all the way to Platinum and then we would skip from Platinum and catch it again at Galena all the way up to above the Main Street bridge. The reason we're not paving between Platinum and Galena is we still have some waterline work to do. We're looking at close to \$700,000.00 coming our way. By contracting that out

it allows our crews to go out and finish the projects in the neighborhoods that are prioritized.

We had a meeting earlier in the week with North Western Energy. We will be getting access to about \$138,000.00 to look at some energy efficiency. They have some programs that they have used in other communities, specifically in Missoula, which they call green blocks. We would be able to use that in Butte. When they get done it's about \$1,600.00 that they put into a house. That can be anything from working with windows, wrapping pipes, anything that has to do with energy efficiency. They match the money that we have.

St. James Community Hospital will be outsourcing some of the jobs that are currently with St. James. He and Jim Smitham met with Chuck Wright to see if there is anything we can do to save some of those jobs.

## **SECTION I**

### **PRESENTATION COMMUNICATION NO. 09-283**

Dan Casey, requesting time on 5/6/09 agenda to make a presentation regarding a solo rider for handicapped golfers.

Mr. Casey explained about the solo rider that he found in Denver. They are going to send a solo rider the 14th of this month and he will be the first to play out of it. It's a handicapped golf cart that anyone can use. He came to the Commission tonight to see if they could get one at the Community Center for all the golfers. They cost \$9,500.00, but he could get it at a discount.

**It was moved by Commissioner Palmer, seconded by Commissioner and carried with a unanimous verbal vote to refer Communication No. 09-283 to the Parks and Recreation Board.**

## **SECTION II**

### **INVITATION FOR BIDS**

**SEALED BIDS ARE HEREBY INVITED FOR THE ELEVATOR REPAIRS AND UPGRADES, BUTTE-SILVER BOW COUNTY COURTHOUSE, 155 W. GRANITE STREET, BUTTE, MONTANA 59701. (Communication No. 09-249 being held in Committee of the Whole) Proof of publication was noted and placed on file.**

Bill Melvin opened up the following:

Kone Elevator and Escalators

1 KONE COURT

MOLINE, IL

BASE BID

\$399,500.00

|   |                |              |
|---|----------------|--------------|
|   | ELEVATOR DOORS | 7,880.00     |
| SULLWAY CONSTRUCTION<br>1695 LEGION LAND<br>BUTTE, MT                                 |                |              |
|   | AUXILIARY WORK | \$148,930.00 |
| WALSH CONSTRUCTION<br>2700 PRINCETON<br>BUTTE, MT                                     |                |              |
|   | BASE BID       | \$132,451.00 |
| MARKOVICH CONSTRUCTION<br>LEXINGTON BUSINESS PARK<br>2827 LEXINGTON AVE.<br>BUTTE, MT |                |              |
|   | BASE BID       | \$112,000.00 |

**It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer the bids to the architect and the Elevator Committee to report back to this Council.**

### SECTION III

### INVITATION FOR PROPOSALS

FOR THE PURPOSE OF OPENING SEALED PROPOSALS FOR ELECTRICAL MODIFICATIONS IN THE MIS DEPARTMENT. (Communication No. 09-262) **Proof of publication was noted and placed on file.**

Linda Sajor opened the following proposals:

|   |             |
|---|-------------|
| Arc Electric<br>P. O. Box 4094<br>Butte, MT       | \$6,548.00  |
| Advantage Electric<br>P. O. Box 3636<br>Butte, MT | \$10,348.96 |
| R & R Electric<br>631 Utah Ave.<br>Butte, MT      | \$5,876.85  |
| Trademark Electric<br>P. O. Box 3786<br>Butte, MT | \$8,943.14  |

**It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer these bids back to the MIS Department for a report back to this Council.**

**SECTION IV**

**PRESENTATION  
COMMUNICATION NO. 09-291**

Dan Powers, Assistant Health Director, requesting time on the 5/6/09 agenda for a presentation by the Montana Department of Environmental Quality.

Dan Powers, Assistant Health Director, introduced Bob Jeffrey, Helena Air Quality Specialist, who will provide a brief power point presentation

**It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to place Communication No. 09-291 on file.**

**SECTION V**

**PRESENTATION  
COMMUNICATION NO. 09-296**

Don Kronenberger, Commissioner District 5, requesting time on the 5/6/09 agenda for a presentation by Eric Klepfer, representing Timberline Resources.

Commissioner Kronenberger introduced Eric Klepfer. He explained that Timberline Resources was about to begin this summer two years of exploration followed by five years of mining for gold in the Highland Mountains.

Eric Klepfer, Coeur d'Alene, Idaho, Director of Timberline Resources, introduced his associates, Paul Dirksen, Vice President of Exploration, and Ron Will, Founder and Owner of Small Mine Development. They all spoke about the Butte Highlands Project.

**It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to place Communication No. 09-296 on file.**

**SECTION VI**

**INVITATION FOR BIDS**

**FOR THE PURPOSE OF OPENING SEALED BIDS FOR A NEW LANDFILL DOZER. (Communication No. 09-305) Proof of publication was noted and placed on file.**

Dan Dennehy, Public Works Director, said they have only one bid, which is from Western States Equipment, 3760 North Reserve Street, Missoula, MT., in the amount of \$424,343.00

**It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to refer the bid back to the Public Works Department for report back to this council.**

**SECTION VII INVITATION FOR BIDS**

**FOR THE PURPOSE OF OPENING SEALED BIDS FOR A NEW WHEELED LOADER. (Communication No. 09-306) Proof of publication was noted and placed on file.**

Dan Dennehy, Public Works Director, opened one bid from Western States Equipment, 3760 North Reserve Street, Missoula, MT., in the amount of \$348,229.00. Included in the bid form was also an equipment trade-in worksheet. The total value of trade-ins that Western States has provided – for the Caterpillar. 1971 cat, \$10,000.00, for the 1969 Michigan, \$2,000.00, for the 1985 Michigan, \$3,200.00, and the 1966 Michigan, \$1,500.00, with a total value of trade-ins = \$16,700.00.

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

**SECTION VIII 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

**B. COMMUNICATIONS**

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any “friendly amendments” or segregations. Commissioner Shaw segregated No. 46, Communication No. 09-308. Commissioner Palmer segregated No. 11, Communication No. 09-269. Commissioner Morgan segregated No. 29, Communication No. 09-288. Commissioner Lee segregated Communication No. 08-801 from the Committee of the Whole Meeting Report Section VI. Also a “friendly amendment” to the Public Works Committee Meeting Report. Apparently, section IV was left out, Communication No. 09-224. Also be advised that another communication came in this week, Communication No. 09-295. Both Communications are the same. He made a “friendly amendment” to add that one to the Public Works Report for April 29, 2009.

**It was then moved by Commissioner Palmer, seconded by Commissioner Sheehy, and carried by a unanimous verbal vote to approve the Consent agenda, Section A, Items 1 through 4 , exclusive of Section VI in the Committee of the Whole Report and Section B, Communications 1 through 60, exclusive of No. 11, 09-269, No. 46 which is 09-308 and 29, which is 09-288.**

### **Segregations**

#### **Committee of the Whole Report, Section VI, Communication No. 08-801**

Ellen Donohue, Attorney, Montana Legal Services Association, requesting Council renew the lease on the Jacobs House for six years.

Commissioner Lee reported the lease has been prepared and has been reviewed by the County Attorney's office. County Attorney Joyce is asking that we authorize the Chief Executive to sign the lease agreement between BSB and the Montana Legal Services Association for the Jacobs House. **He then made a motion to approve the lease and authorize the Chief Executive to sign the lease and place on file. The motion was seconded by Commissioner Palmer and carried with a unanimous verbal vote.**

#### **Communication No. 09-269**

Amy Manager, Risk Management Analyst, requesting authorization for Chief Executive to sign the MMIA Interlocal Agreement/Program Documents.

Commissioner Palmer said there is some questions on the wording of the agreement. **He moved to refer this communication to the County Attorney's Office and hold it in Committee of the Whole. Commissioner Lee seconded the motion and it carried with a unanimous verbal vote.**

#### **Communication No. 09-288**

Jim Eighorn, requesting that a Melrose Cemetery Committee be established

John Morgan questioned if the communication should actually be referred to the Public Works Committee or if it should go to a Board that governs the cemeteries. Dan Dennehy, Public Works Director, said he is not sure if there is a Melrose Cemetery Committee. He feels it should be referred to the Public Works Committee. **It was moved by Commissioner Morgan, seconded by Commissioner Granger and carried with a unanimous verbal vote to send Communication No. 09-288 to the Public Works Committee.**

#### **Communication No. 09-308**

George Everett, National Folk Festival Director, requesting various street closures for the National Folk Festival events.

Commissioner Shaw said that one of her constituents has requested that they also close E. Woolman Street from Main to Wyoming for emergency purposes. That needs to be



**4. COUNCIL RESOLUTION NO. 09-24**

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING THAT PORTION OF THE ALLEY LOCATED ADJACENT TO LOTS 1 AND 9 OF THE COLORADO LODE MINING CLAIM AND TO LOTS 30 AND 31 OF THE LIZZIE LODE MINING CLAIM TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

**5. COUNCIL RESOLUTION NO. 09-25**

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF CERTAIN PARCELS OF LOCAL GOVERNMENT OWNED REAL PROPERTY LOCATED IN THE 400 BLOCK OF EAST PARK STREET, LEGALLY DESCRIBED AS LOTS 5 THROUGH 9 OF THE LIZZIE LODE (AN UNFILED PLAT), MINERAL SURVEY NO. 795, LOCATED IN SECTION 18, TOWNSHIP 3 NORTH, RANGE 7 WEST P.M.M., BUTTE-SILVER BOW COUNTY, MONTANA (PARCEL NO. 0001906925) AND LOTS 10 AND 11 OF THE LIZZIE LODE (AN UNFILED PLAT), MINERAL SURVEY NO. 795, LOCATED IN SECTION 18, TOWNSHIP 3 NORTH, RANGE 7 WEST, P.M.M., BUTTE-SILVER BOW COUNTY, MONTANA (PARCEL NO. 0000711300) FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**6. COUNCIL RESOLUTION NO. 09-26**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE AMENDED PLAT OF THE KINGS ADDITION NO. 2 AND LOTS ON THE YELLOW JACKET LODE ADDITION 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.

**7. COUNCIL RESOLUTION NO. 09-27**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE ELK RIDGE ESTATES 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.

**8. COUNCIL RESOLUTION NO. 09-28**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE TIPPETT 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.

**9. COUNCIL RESOLUTION NO. 09-29**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE FLINT CREEK RANCH CLUSTER DEVELOPMENT PHASE III 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

**10. COUNCIL RESOLUTION NO. 09-30**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE PERRY'S LODGE 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.

**SECTION X ORDINANCES AND RESOLUTIONS -  
FINAL READING**

**1. COUNCIL RESOLUTION NO. 09-19**

A RESOLUTION AUTHORIZING THE PURCHASE OF TWO RIGHTS-OF-WAY PARCELS FROM A & K RAILROAD MATERIALS, INC. FOR THE RAILS TO TRAILS PROGRAM IN THE AREA COMMONLY REFERRED TO AS THOMPSON PARK, ALL TO BE ACQUIRED WITH A GRANT FROM THE MONTANA DEPARTMENT OF JUSTICE AS PART OF THE NATURAL RESOURCE DAMAGE PROGRAM (NRDP) AND AUTHORIZING THE RECORDING OF APPROPRIATE DEEDS TO EXECUTE THE LAND TRANSFERS ALL AS DESCRIBED HEREIN AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas, 0 nays to place Council Resolution No. 09-19 on final reading and passed having been deemed read at length.**

**2. COUNCIL RESOLUTION NO. 09-20**

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS THE WEST 60 FEET OF LOTS 2 AND 3 IN BLOCK 2 OF THE WALKERVILLE TOWNSITE, OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 09-20 on final reading and passed having been deemed fully read at length.**

**ADJOURN**

**There being nor further business to come before the Council, it was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.**

The meeting adjourned at 9:30 p.m.

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CHIEF EXECUTIVE

ATTEST:

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CLERK AND RECORDER