

**MINUTES OF THE REGULAR MEETING OF THE
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
FOR MARCH 24, 2010**

The Regular Meeting of the Council of Commissioners was called to order Wednesday, March 24, 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

12 present, 0 absent,

PRAYER

Commissioner Lee led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF MARCH 3, 2010, AND THE SPECIAL MEETING OF MARCH 10, 2010.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of March 3, 2010. The motion carried with a unanimous verbal vote.

ITEMS NOT ADDRESSED ON THE AGENDA

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 11 yea, 1 nay to suspend the rules in accordance with the provisions of Subsection 6 of Rule VI of the Rules of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council Rules be suspended to allow Council Communication No. 10-174 to be added to the Agenda of the March 24, 2010 Meeting of the Council.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reported the following:

- Butte-Silver Bow received great news regarding being selected for the Veterans' Home Project.
- A phone conference meeting was held last week with Dan Bucks regarding the reappraisal to establish ground work on questions Butte-Silver Bow has in regards to the certified values.
- Work is being completed by Karen Byrnes regarding a proposal for a fiber broadband build out, which will be submitted to Google.
- The Butte-Silver Bow Airport received good news today in regards to a third flight being added in June. A small community air service grant was also awarded to the airport, which will provide a \$50.00 voucher for passengers arriving or departing on Sundays or Tuesdays.

SECTION I

PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING THE RESOLUTION RELATING TO BUTTE-SILVER BOW TAX INCREMENT INDUSTRIAL DISTRICT #2. (Communication No. 10-126 being held in Committee of the Whole.) **Proof of Publication was noted and placed on file.**

Kristen Rosa, 155 W Granite explained the reason for this Public Hearing is to refinance the TI-FID Bonds which were put into place when REC was built. The current interest rate for these bonds is 7.6% and the new rate will be 4.75%. The interest savings from the refinancing will be used for upgrading the substation at REC.

Chief Executive, Babb opened the Public Hearing at 7:42 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 7:43 p.m.

SECTION II

PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING TREATMENT/PREVENTION NEEDS IN BUTTE-SILVER BOW FOR CHEMICAL DEPENDENCY AND PREVENTION SERVICES. (Communication No. 10-132 being held in Committee of the Whole)

County Attorney Joyce stated there is no proof of publication for this Public Hearing.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed by a unanimous verbal vote to hold the request for the Public Hearing in abeyance until proper publication has been obtained.

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

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 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 and B, 1through 31.

Ellen Crain, 405 S. Excelsior stated she is before Council tonight to introduce Bell Ferko from MSE who is the Consultant for the Archives F.F. & E. bid. Ms. Crain explained F.F. & E. stands for furniture, fixtures and equipment.

Bill Ferko 4815 S Wyoming, stated the following:

- He is the Manager of the Purchasing and Contracts group for MSE Technology Applications.
- Butte-Silver Bow Archives hired MSE as a consultant to assist in the acquisition process for furniture, fixtures and equipment.
- Invitations for bid were sent to the Montana Standard and The Missoulian during February 28, 2010 and March 7, 2010.
- Twenty two bid packages were sent to interested parties between February 26, and March 4, 2010.
- All bids were due on March 16, 2010 at 1:00 p.m.
- A mandatory pre-bid meeting was held at the Archives on March 8, 2010 at which nine interested parties attended.
- The bid opening was conducted on March 16, 2010 with seven proposals.
- Of the seven proposals, six were deemed acceptable.
- All of the bids were partial proposals.
- The six bids are currently being evaluated in regards to price and compliance with the specifications contained in the invitation to bid package.
- On site meetings are scheduled for the purpose of evaluating proposed items to ensure such items are compliant with the specifications.
- Once a positive determination is made, a price analysis will be performed to optimize the overall purchase price.
- A recommendation for contract awards will be presented to Council no later than close of business March 26, 2010.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed with a unanimous verbal vote to place Communication No. 10-157 be placed on file.

COMMUNICATION NO. 10-171

Jon Sesso, Planning Director, requesting Council's concurrence for a Staff Presentation on March 24, 2010 and to authorize the submission of project proposals to the State of Montana's 2010 Natural Resource Damage Pro-

gram.

Jon Sesso, Planning Director gave a power point presentation and distributed two handouts which listed the grants Butte-Silver Bow County has received since the beginning of the Natural Resource Damage in 2000. He stated the projects are grouped into three categories; Groundwater, Aquatic and Terrestrial.

Mr. Sesso explained the priority in the first decade of the program has been the groundwater projects to improve the drinking water infrastructure. Mr. Sesso further explained Butte-Silver Bow has received nine projects for distribution main replacements since 2001. Butte-Silver Bow has received \$15,500,000 from the NRD Program, which has been matched with \$4,500,000 by Butte-Silver Bow.

Mr. Sesso stated the main project under the Aquatic category has been the Silver-Bow Creek Greenway for which Butte-Silver Bow has received seven grant awards since 2000 amounting to \$15,500,000 and has been matched with \$741,000,000 by Butte-Silver Bow.

Mr. Sesso explained seven projects have received grants since 2005 which fall into the Terrestrial category amounting to \$3,900,000 and matched by Butte-silver Bow with \$869,721.

Mr. Sesso summarized the grants received by Butte-Silver Bow from the Natural Resource Damage Program - \$50,000,000 in the first decade which have been matched with nearly \$10,000,000 in cash or in-kind services for a total of approximately \$60,000,000.

Mr. Sesso gave a brief explanation of the chart with the 2010 Project Proposals which are due to be submitted to the State of Montana Natural Resource Damage Program by April 9, 2010 and asked Council for their support as well as authorization of a letter to be signed by the Chief Executive and the Council Chairman to be included in the packets.

Rick Larson, Utilities Manager, BSB Public Works Department explained the four priorities Butte-Silver Bow will be pursuing this year.

- 1) Big Hole Dam Rehabilitation Project Phase 2, New Pump House.
 - Dowl HKM has been hired to design and over see the new diversion dam.
 - Diversion dam was built nearly a century ago with an intake structure, a cistern and a pump house.
 - After assessing the old dam, it was decided the components from the old dam would not fit with the new diversion dam.
 - The diversion dam and the intake will be replaced.
 - The cistern is ready to collapse and needs to be replaced.
 - The pump house is a National Historic Registered Building, which needs to be preserved, and is in great need of repair.

- A new pump house is necessary to fit with the new diversion dam and the new intake.
- 2) Water System Conservation Measures.
 - A grant was obtained last year from the NRD Program to replace water meters in Butte-Silver Bow.
 - Since January 1, 2010, 150 meters have been replaced and Butte-Silver Bow will be asking for another grant to replace more meters.
- 3) Big Hole Transmission Line Replacement.
 - Butte-Silver Bow will be applying for a grant to replace 20,000 feet of transmission line for the Big Hole Transmission Line Replacement.
 - Last year 10,000 feet of transmission line was replaced and this year 12,000 feet will be replaced.
 - Another 7,000 feet will be replaced this year through the stimulus package.
 - A contract for the year three grant for 15,000 feet will be presented to Council in the near future.
- 4) Distribution Line Replacement Repair Project.
 - These are distribution lines on the Butte Hill and are part of the Butte Priority Soils Operability Unit.
 - Over 150,000 feet have been replaced with NRD Grants.
 - Butte-Silver Bow is applying for a grant to continue the program.

Mr. Sesso explained the following in regards to the Hillcrest Open Space/Kids Fishing Pond:

- The pond is designed for the area behind NCAT near Hillcrest School.
- An open space park will be provided with restoration of the Riparian Area by restoring vegetation and controlling weeds.
- Work has been done with the Skyline Sportsman, the Hang-Gliding Association and Montana Tech to determine the best approach for reclaiming and restoring the land.
- Butte-Silver Bow received a \$25,000 grant from the NRD Program to put together a conceptual design for the pond and the open space.
- The pond will be feed by groundwater and will be stocked with fish.
- The groundwater has been tested and shows it will support the fishing pond activity.
- The pond will lined and will be approximately twelve feet deep and one-half to one acre in size.
- All safety issues have been addressed and the Butte-Silver Bow's insurance provider has given assurance the project is coverable.
- The application for this Project will be submitted in early April.

Pat Cunneen, 1144 W. Gold stated he is employed by the Montana Natural Resource Damage Program and explained the following:

- There is a great need for the Big Hole Pump House and Butte-Silver Bow should make this project a priority.
- Suggested a brief letter of support to the NRD staff be submitted by members of the community.
- Stated he believes the Kids Fishing Project will be approved by the NRD Program.

Suzanne Nordwick, Co-Chairman of the Butte Restoration Alliance, stated the following:

- The purpose of the Alliance is to prioritize restoration projects within the Butte area.
- The Alliance maintains a list of priority projects for potential restoration dollars coming to the Butte area and the following projects presented tonight are on this list.
 1. The Kids Fishing Pond for both recreation and neighborhood enhancement aspects.
 2. Drinking water infrastructure ranks high on the list.
 3. Big Hole Dam Pump House has been on the list for the last three years.
 4. The Big Hole Transmission Lined and the current distribution lines.
 5. The Water Treatment Plants and upgrades to Metro Water Treatment.

Mr. Sesso stated he would answer any questions Council may have and asked for authorization to apply for the grants, to authorize the Chief Executive to sign the grant application and authorize a letter of support for the grants.

SECTION V

ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL RESOLUTION NO. 10-24

A RESOLUTION DESIGNATING BUTTE-SILVER BOW, MONTANA AS A RECOVERY ZONE FOR PURPOSES OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 10-25

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS A PORTION OF THE RETAKEN LODE #2346, LOCATED IN SECTION 12, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., 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.

3. COUNCIL RESOLUTION NO. 10-26

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS LOT 1 IN BLOCK 6 OF THE CENTRAL ADDITION TO THE CITY-COUNTY OF BUTTE-SILVER BOW, MONTANA, LOCATED IN SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., 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.

4. COUNCIL RESOLUTION NO. 10-27

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF NORTH IDAHO STREET ADJACENT TO LOT 2 IN BLOCK 7 OF THE RAVIN ADDITION 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.

**ORDINANCES
SECOND READING**

1. **COUNCIL BILL NO. 10-01
ORDINANCE NO. 10-01**

AN ORDINANCE AMENDING CHAPTER 2.20 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "LAW ENFORCEMENT DEPARTMENT"; AMENDING SECTION 2.20.085, B-SB SUBSECTION F, ENTITLED "FEES OF SHERIFF" AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. 10-01, Ordinance No. 10-01 be placed on second reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.**

2. **COUNCIL ORDINANCE NO. 10-2**

AN ORDINANCE AMENDING CHAPTER 2.36 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "PARK AND RECREATION BOARD"; AMENDING SECTION 2.36.040, B-SB MC SUBSECTION A, ENTITLED "CREATED-MEMBERS' APPOINTMENT, TERMS AND REMOVAL-VACANCY-FILLING-

OFFICERS' ELECTION" AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. 10-02, Ordinance No. 10-02 be placed on second reading and passed having been deemed read at length. **The motion carried with a roll call vote of 12 yeas and 0 nays.**

SECTION VII

**ORDINANCES AND RESOLUTIONS –
FINAL READING**

1. **COUNCIL RESOLUTION NO. 10-12**

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 PLANNING DEPARTMENT FROM THE DNRC TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-12 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.**

2. **COUNCIL RESOLUTION NO. 10-13**

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 PLANNING DEPARTMENT FROM THE DNRC TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-13 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.**

3. **COUNCIL RESOLUTION NO. 10-16**

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 PUBLIC WORKS DEPARTMENT FROM THE STATE REVOLVING FUND THROUGH THE AMERICAN RECOVERY INVESTMENT ACT TO ASSIST IN FUNDING THE WASTEWATER TREATMENT PHASE I UPGRADES TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-16 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.**

4. **COUNCIL RESOLUTION NO. 10-17**

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 PUBLIC WORKS DEPARTMENT FROM THE STATE REVOLVING FUND THROUGH THE AMERICAN RECOVERY INVESTMENT ACT TO ASSIST IN FUNDING THE BIG HOLE FRESH WATER TRANSMISSION LINE REPLACEMENT PROJECT TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-17 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.**

5. **COUNCIL RESOLUTION NO. 10-18**

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 PUBLIC WORKS DEPARTMENT FROM THE MONTANA DEPARTMENT OF TRANSPORTATION FOR A TRAFFIC SIGNAL LIGHT REPLACEMENT TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-18 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.**

6. **COUNCIL RESOLUTION NO. 10-19**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE EXPEDITED REVIEW OF THE CARQUEST 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. 10-19 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.**

7. **COUNCIL RESOLUTION NO. 10-23**

A RESOLUTION RELATING TO BUTTE-SILVER BOW TAX INCREMENT INDUSTRIAL INFRASTRUCTURE DISTRICT #2; CALLING FOR A PUBLIC HEARING ON THE ISSUANCE OF TAXABLE TAX INCREMENT REVENUE BONDS TO FINANCE THE COSTS OF ADDITIONAL IMPROVEMENTS TO THE ELECTRICAL POWER SUBSTATION; TO REFUND THE TAXABLE TAX INCREMENT BONDS, SERIES 1996 AND SERIES 1997; TO AUTHORIZE THE NEGOTIATED SALE THEREOF; AND PAYING COSTS ASSOCIATED WITH THE SALE OF THE BONDS. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-23 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 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 9.05 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER