

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

FOR MAY 19, 2010

The Regular Meeting of the Council of Commissioners was called to order Wednesday, May 19, 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

10 present, 2 absent. Commissioners Granger and Shaw were excused

PRAYER

Commissioner Hall led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF APRIL 21, 2010.

Commissioner Palmer made a Friendly Amendment to page one of the minutes of the Regular Meeting of May 5, 2010 to read Commissioner Foley will be on the Pool Committee instead of Commissioner Moodry.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of May 5, 2010. 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

Mitch Booth 1511 N Excelsior stated he is concerned about Mark Gibbons who sells medical marijuana at Gilligan's Tobacco Shop, and feels Council may not be aware of the issue because of his problems with Gerry O'Brien, Editor of the Montana Standard. Mr. Booth explained he and Mr. O'Brien do not get along because of the claim filed against Butte-Silver Bow by Mr. Booth and also stated Mr. O'Brien has "kicked him off the Montana Standard" because of the claim. Mr. Booth also accused Mr. O'Brien of being "in the Sheriff's Pocket".

Commissioner O'Leary interrupted Mr. Booth and expressed concern stating Mr. Booth's comments bordered on incivility.

Chief Executive Babb stated Mr. Booth would be allowed to continue speaking.

Mr. Booth continued stating his comments were true and explained Mark Gibbons is selling medical marijuana from an establishment he feels is in violation of federal laws. He further explained he feels the Alcohol, Tobacco and Firearms Laws prohibit the sale of medical marijuana from the proximity of an establishment selling alcohol.

Chief Executive Babb explained he felt this should be brought to the attention of the Law Enforcement Department.

Mr. Booth stated he attempted to alert the Law Enforcement Department, but his efforts were ignored.

Chief Executive Babb further explained Mr. Booth's point had been made and asked him to summarize his thoughts for Council.

Mr. Booth stated he also has a concern regarding the property on which he has filed a claim against Butte-Silver Bow County. Mr. Booth explained he has been mowing the weeds on the property for the past five years since Butte-Silver Bow has not been doing so. He further stated the police were sent to the property while he was mowing the weeds by one of his neighbors.

Chief Executive Babb explained this matter is being considered by Council and asked Mr. Booth if he had anything else to discuss.

Mr. Booth expressed his desire to mow the weeds inside the gate of the Water Company at no cost to the city. He explained he is willing to do this because his daughter is living with him and is allergic to these weeds.

Chief Executive Babb thanked Mr. Booth for his offer and stated Butte-Silver Bow will take care of the weeds.

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb Invited Council to the Veterans' Appreciation Dinner Tuesday, May 25 at the Civic Center and gave the following overview of the employee meetings held Monday, May 17, 2010 regarding the budget:

- Meetings were held to ensure all employees had the opportunity to learn of the budget issues first hand.
- Budget will be tight and it is necessary to begin planning now.
- Chief Executive's budget will be very conservative.
- Open employee meetings will be held as further information is gathered.
- Top priority is to avoid lay-offs.
- Capital purchases will be scrutinized closely.
- All purchases tied to grants will move forward.
- A pay freeze will be implemented immediately.
- A hiring freeze is effective immediately with the exception of summer help, which has been scaled back.
- There will be limited travel and training.
- Vehicle usage will be monitored.
- All departments have been asked to not spend down their budget.
- Employees have been asked to submit ideas regarding further savings.
- Meetings have been scheduled with the Unions involved and contracts in place will be honored.

SECTION I

PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING THE APPLICATION FOR AND THE ALLOCATION OF THE FY 2010 ASSISTANCE GRANT FUNDS. (Communication No. 10-256 being held in Committee of the Whole.) **Proof of Publication was noted.**

Chief Executive Babb opened the Public Hearing at 7:55 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 7:56 p.m.

SECTION II

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 Hall segregated page 3, Section II, Consent Agenda, number 20, Communication No. 10-295.

Commissioner O'Leary segregated page 2, Section II, consent Agenda, number 8, Communication No.10-283.

Commissioner Moodry segregated page 9, Finance and Budget Committee Meeting Report, Section VI, Communication No. 10-267.

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 exclusive of No. 2, section VI, Communication No. 10-267, and B Items 1 through 27 exclusive of Communication No's. 8, 10-283 and 20, 10-295.

Segregation – Communication No. 10-283

Andrew Zdinak, Marketing Director Butte Local Development Corporation's Anaconda ARCO Loan Fund Committee to MSE, Inc.

Commissioner O'Leary commented the letter from BLDC is meant to inform Council of the intent of the BLDC Board and Loan Committee and asked Commissioner if the recommendation should be changed to read "note and place on file".

Commissioner Palmer stated in his opinion, Council is being asked to concur with the recommendation of the BLDC Board, but would agree to change the recommendation.

Commissioner O'Leary stated he was willing to agree to note the communication, but was not willing to concur with it.

A substitute motion to change the recommendation of Communication No. 10-283 to note and place on file was made by Commissioner O'Leary and seconded by Commissioner Moodry.

Commissioner Sheehy asked if it would be possible to obtain more information regarding the loan.

Commissioner O'Leary replied the narrative concerning the loan is available in the Commissioner's office and Mr. Zdinak is available by phone to answer questions.

The motion passed with a verbal vote of 9 yeas and 1 nay.

Segregation – Communication No. 10-295

Brandt Thomas, 1823 Wall Street, requesting review proposal to establish a folf (Frisbee golf) course in Clark Park.

Commissioner Hall stated Mr. Thomas has brought to her attention the young people playing folf in Clark's Park. She explained Mr. Thomas has spent a great deal of time working with these people to map out a course which uses the perimeter of the Park. Mr. Thomas wanted to make a presentation to Council regarding these plans this evening, but was told his communication has been referred to the Parks and Recreation Board. Commissioner Hall further stated Mr. Thomas is present and will answer any questions Council may have.

Commissioner Schultz stated he is concerned about the number of people playing folf at Clark's Park and questioned the idea of a formal course.

Chief Executive Babb replied he felt it best to refer the communication to the Parks and Recreation Board in order for the details to be worked out before bringing it back to Council.

Commissioner Schultz asked Chief Executive Babb if the only way Council would have input on the course would be to go to the Parks and Recreation Board.

Chief Executive Babb explained the Parks and Recreation Board was the best starting place because the board is in charge of all parks by Butte-Silver Bow's Charter. The communication will still be kept on the agenda for a report back from the Parks and Recreation Board.

Commissioner Hall stated Mr. Thomas' research on the folf course was extensive and as of now there have been no incidents with out of control folfing.

Commissioner Morgan asked what was necessary to establish a folf course.

Commissioner Hall replied Mr. Thomas's plans called for baskets to be used instead of hitting trees and these baskets would be designed with a gallows frame on the back with the number of each section on

the basket. She explained Mr. Thomas wanted to present this information to Council but was told his communication would be sent to the Parks and Recreation Board for review first.

Chief Executive Babb explained there was no presentation scheduled on the agenda and Mr. Thomas could give a presentation to Council at any time if he sent a letter to Council requesting to give a presentation.

Commissioner Hall restated Mr. Thomas requested to give a presentation, but was told his communication needed to go to the Parks and Recreation Board first.

Chief Executive Babb explained a motion could be made to send the communication to the Parks and Recreation Board and schedule a presentation by Mr. Thomas next week at the Committee of the Whole.

Mr. Thomas responded he would be out of town next week, but could answer any questions Council may have with a brief explanation this evening.

Chief Executive asked Council if they would agree to listen to Mr. Thomas's explanation.

Council agreed to listen to the explanation.

Brandt Thomas, 1823 Wall explained the following:

- Folf (Frisbee golf) has been in existence for over thirty years.
- There are nineteen recognized courses in Montana.
- Clark's Park has been used for folfing for the past two years.
- There have been no 911 calls involving folf at Clark's Park.
- An informal course is being used at the park from February to November.
- Clark's Park is only used for folf when the park is not being used by others.
- The course will be established within the perimeter of the park and will conform to the specifications by the Professional Disc Golf Association.
- The baskets will have chains hanging down; when the Frisbee hits the chains it will fall into the basket.
- The baskets will be seventy meters apart, and will be numbered.
- The course will be designed with nine holes.
- Wants to fabricate the baskets locally with a Butte theme.

Mr. Thomas further stated he would pledge \$200 towards establishing the course and stated Frank and Ristene Hall also wanted to pledge \$200. A local entertainer is willing to help with an event to raise funds for the course.

It was moved by Commissioner Hall, seconded by Commissioner Lee and passed with a unanimous verbal vote to send Communication No. 10-295 to the Parks and Recreation Board for their recommendation.

Segregation – Communication No. 10-267

George Everett, Executive Director, Mainstreet Uptown Butte, requesting Council's authorization of a short-term loan in the amount of \$50,000 to assist with expenses for the 72nd National Folk Festival.

Commissioner Moodry explained the intent of the Finance and Budget Committee's recommendation was to approve the request of the communication, refer it to the County attorney for review, and execute the loan documents as appropriate. He further explained the committee wanted more input from the County Attorney's office as to whether it was appropriate and within the bounds of law to allow the short-term, uncollateralized loan.

County Attorney Joyce stated the recommendation for the County Attorney to execute the loan documents is in error and the Chief Executive would execute the documents. She explained the loan would be funded with Hard Rock Money, which is already in the Chief Executive's budget, to be allocated for the appropriate purposes set forth in the statute. Economic development is an appropriate purpose for Hard Rock funds and it is allowable for the loan to be funded.

Commissioner Moodry asked County Attorney if it would be appropriate to change the recommendation to read, Communication No. 10-267 be reviewed by the County Attorney and authorize the Chief Executive to execute the loan documents.

County Attorney replied yes, that would be appropriate.

It was moved by Commissioner Moodry, seconded by Commissioner Lee and passed with an unanimous verbal vote to refer Communication No. 10-267 to the County Attorney for review and authorize the Chief Executive to execute the loan documents.

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 10 yeas and 0 nays to suspend the rules for the purpose of passing Council Resolution No's 10-46, 10-47 and 10-48 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.

1. **COUNCIL RESOLUTION NO. [10-46](#)**

A RESOLUTION TO DONATE A FIRE APPARATUS, A 1976 FORD 8000 PUMPER, TO THE ELK PARK VOLUNTEER FIRE DEPARTMENT, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-46 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yea and 0 nay.**

2. **COUNCIL RESOLUTION NO. [10-47](#)**

A RESOLUTION OF INTENT TO DONATE FOUR SETS OF BLEACHERS TO THE WHITEHALL CHAMBER OF COMMERCE AND THE TOWN OF WHITEHALL, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-47 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yea and 0 nay.**

MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-40 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yea and 0 nay.**

2. **COUNCIL RESOLUTION NO. 10-41**

A RESOLUTION DIRECTING THE BUTTE-SILVER BOW TREASURER TO MAIL NOTICE OF PENDING TAX DEED ISSUANCE TO ALL PERSONS CONSIDERED INTERESTED PARTIES FOR EACH PROPERTY FOR WHICH THERE HAS BEEN ISSUED A TAX CERTIFICATE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 15-18-212, MCA; FURTHER DIRECTING THE TREASURER TO ISSUE TAX DEED FOR THOSE PARCELS OF PROPERTY WHERE THERE HAS BEEN ISSUED A TAX CERTIFICATE AND THE EXPIRATION DATE OF THE REDEMPTION PERIOD HAS EXPIRED AND THE REQUIRED PAYMENTS HAVE NOT BEEN MADE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-41 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yea and 0 nay.**

3. **COUNCIL RESOLUTION NO. 10-43**

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA, FOR A MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-43 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yea and 0 nay.**

4. **COUNCIL RESOLUTION NO. 10-44**

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY LOCATED IN THE PORT OF MONTANA'S BUSINESS DEVELOPMENT PARK, LEGALLY DESCRIBED AS TRACT 3A, COS 838B, WITHIN THE CITY-COUNTY BUTTE-SILVER BOW, STATE OF MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-44 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yea and 0 nay.**

5. **COUNCIL RESOLUTION NO. 10-45**

A RESOLUTION RELATING TO A PROJECT ON BEHALF OF WILLIAM CHARLES BUTTE MONTANA, LLC AND THE ISSUANCE OF A REVENUE BOND TO FINANCE THE COSTS THEREOF UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; GRANTING PRELIMINARY APPROVAL THERETO AND

CALLING A PUBLIC HEARING THEREON AND ESTABLISHING COMPLIANCE WITH CERTAIN REIMBURSEMENT REGULATIONS UNDER THE INTERNAL REVENUE CODE. It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-45 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yea and 0 nay.

Commissioner O'Leary stated it is the intent of Council to conduct all meetings within a civilized manner from the time roll call is taken until adjournment. He further stated the section on the agenda calling for public comment on any public matter not on the agenda is a valuable tool for the public to bring issues to Council. It is not intended for use by someone to ventilate and degrade public officials and the Montana Standard on personal matters. Commissioner O'Leary explained the comments of Mr. Booth went over the line assigning ill-motivation to elected officials and the Montana Standard and his tone was accusatory. He stated this type of behavior should not be tolerated and it should be made clear to anyone who speaks under this section of the agenda; Council expects civility and decency in everything said.

Commissioner Foley commented a member of Council should be appointed to the Parks and Recreation Board.

Commissioner Schultz asked if there should be a place on the agenda for the Commissioners to comment on events happening after the deadline for communications.

Chief Executive Babb stated it would not be appropriate for the Commissioners to speak as a member of the public.

Commissioner Palmer stated the section for items not on the agenda could be used for any Commissioner to make comments.

County Attorney Joyce agreed with Commissioner Palmer stating a comment could be made by any Commissioner under the section for items not addressed on the agenda, and if necessary a request to place a communication on the agenda could be given under this section. County Attorney Joyce explained the section for public comment on any public matter not on the agenda is required by law to be on every agenda for any meeting subject to the open meeting laws.

Chief Executive Babb asked County Attorney Joyce if items not addressed on the agenda would give a Council member the opportunity to give a report such as the Chief Executive's Report or if the item would need to be added to the agenda under suspension of the rules.

County Attorney Joyce replied it would be necessary to add the item under suspension of the rules if the matter required action by Council. She also explained it would be appropriate for a Council member to speak regarding a matter that required no action by Council such as an update or a report from their district under the section of items not addressed on the agenda. Ms. Joyce stated it would also be appropriate for the Commissioners to speak at the end of the meeting when the Chief Executive asked for any comments or announcements.

Commissioner Schultz stated he is concerned about problems with the Medical Marijuana issue and what has been done in Anaconda. He further stated he wanted to make sure all Commissioners are aware of this issue.

Commissioner Schultz also stated his concerns regarding the street closures by the Highway Department in his district to make the changes for the Americans with Disabilities Act. He was not made aware of these closures and felt Council should be notified as well.

Commissioner O'Leary commented Council is precluded from discussing an item of concern. A Commissioner can make a statement but it cannot be debated or voted on.

County Attorney Joyce replied this is correct.

Commissioner Sheehy asked County Attorney Joyce for a copy of the Medical Marijuana Law.

County Attorney Joyce stated she would provide a copy of the Medical Marijuana Act.

Commissioner Moodry announced the wastewater line was discussed in detail at the TIFID Board meeting and the engineering phase is nearing completion. He also stated the project will soon be going out for bid.

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 8:35 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER