

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

FOR July 7, 2010

The Regular Meeting of the Council of Commissioners was called to order Wednesday, July 7, 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

11 present, 1 absent. Commissioner O'Leary was excused

PRAYER

Commissioner Hall led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JUNE 16, 2010 AND THE SPECIAL MEETING OF JUNE 23, 2010.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of June 16, 2010 and the Special Meeting of June 23, 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

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reported the following:

- A Series of four budget meetings were held with Butte-Silver Bow employees.
- Sea Cast will conduct an Open House on July 8, 2010 between the hours of 11:30 a.m. and 2:30 p.m.
- Encouraged everyone to attend the Folk Festival.

SECTION I

PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING DEVELOPER'S PACKET PROPOSALS FOR VACANT PROPERTY LOCATED IN THE 500 BLOCK OF EAST PARK STREET, BUTTE, MONTANA. (Communication No. 10-320 being held in Committee of the Whole) Proof of Publication was noted.

Dori Skrukrud, Butte-Silver Bow Community Development Department explained two proposals were received in response to the Request for Proposals for the vacant property located in the 500 block of East Park Street. The first application was submitted by Water & Environmental Technologies and Stenson Physical Therapy. The second applicant was submitted Car Tune Automotive Services.

Chief Executive Babb opened the Public Hearing at 7:38 p.m. and called for proponents.

Josh Vincent, Water & Environmental Technologies (WET) stated he was in favor of the proposal submitted by his firm and explained the application was combined with Stenson Physical Therapy. Mr. Vincent further explained the proposed building for WET would be 6,400 square feet and the financing for the project is in place.

Guy Vesco, 943 S Dakota stated he is part owner of Car Tune Automotive Services and is in favor of the proposal submitted by his company.

Chief Executive, Babb called for opponents.

On the third and final call, there being none, Chief Executive, Babb closed the Public Hearing at 7:44 p.m.

SECTION II PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING DEVELOPER'S PACKET PROPOSALS FOR VACANT PROPERTY LOCATED AT 1508 DUNN AVE., WALKERVILLE, MONTANA. (Communication No. 10-321 being held in Committee of the Whole) Proof of Publication was noted.

Dori Skrukrud stated five proposals were received in response to the Request for Proposals for the redevelopment of the structure and vacant property located at 1508 Dunn Ave. Ms. Skrukrud explained the asking price for the property is \$500 along with minimum requirements associated with health and safety issues.

Chief Executive Babb opened the Public Hearing at 7:38 p.m. and called for proponents.

Bob Tupling, 817 W Mercury stated he was in favor of the proposal submitted by Don Jipp and vouched for Mr. Jipp's workmanship.

Thomas Murnion 1504 Dunn stated he is in favor of the proposal submitted by Eric Johnson.

Chief Executive Babb called for opponents.

On the third and final call, there being none, Chief Executive, Babb closed the Public Hearing at 7:50 p.m.

SECTION III PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING A PROPOSED APPLICATION TO THE MONTANA DEPARTMENT OF COMMERCE CDBG-ED PROGRAM. (Communication No. 10-393 being held in Committee of the Whole) Proof of Publication was noted.

Karen Byrnes, Community Development Director for Butte-Silver Bow explained the Public Hearing is required as part of the efforts for an application to the Montana Department Of Commerce under the CDBG Program for a grant for Headwaters RC&D. Headwaters RC&D is applying for Economic Development funds through the program for a project located in the Thornton Building.

Warren Hardin, 1027 Hornet, representing Headwaters RC&D, explained his firm is the certified regional development counsel for the Montana Department of Commerce for Butte-Silver Bow. Headwaters RC&D is submitting an application for Economic Development funds to expand the high performance computer operated by MERDI.

Chief Executive Babb opened the Public Hearing at 7:52 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 7:53 p.m.

SECTION IV

PRESENTATION

COMMUNICATION NO. 10-399

Terry Schultz, District 4 Commissioner, Butte-Silver Bow Council of Commissioners, requesting Council's authorization for a presentation July 7, 2010 regarding consideration of an ordinance allowing emergency responding physicians' similar status as other Emergency Responders.

Commissioner Schultz explained he was recently contacted by Dr. Adam Childers regarding a problem physicians in Montana are having. Commissioner Schultz further explained Montana's population is not large enough to warrant hospitals having physicians on staff twenty-four hours per day. Therefore, physicians find it necessary to respond to emergencies often and are requesting an ordinance which would allow emergency responding physicians' similar status as other Emergency Responders.

Dr. Adam Childers, 3250 S. Dakota made the following statements:

- It is a great challenge for physicians to respond to emergency calls.
- Emergency trauma calls per month average 1-2, obstetrics' calls average 3 per week and pediatric calls average 15-30 per year for each of 4 physicians.
- Safety of the physicians and of the community is a major concern.
- Requested the use of emergency lights similar to those utilized by volunteer firefighters and emergency responders.
- Emergency lights will make aid in making physicians responding to an emergency more visible to law enforcement and members of the community.
- Introduced a letter signed by twelve physicians of the community requesting similar status as other Emergency Responders.

Commissioner Frasz asked Dr. Childers if there are Doctors available 24 hours per day at the hospital for emergencies.

Dr. Childers replied emergency room Doctors are available at all times, but these Doctors do not respond to obstetrical or pediatric emergencies which occur in other areas of the hospital.

Commissioner Frasz asked Dr. Childers if the request is for emergency lights only or if sirens were also being requested. Commissioner Frasz also asked Dr. Childers if the physicians would pay for the purchase and installation of these items.

Dr. Childers replied each physician would be required to purchase their own equipment and stated he was not certain about the use of sirens.

Commissioner Frasz stated his appreciation of the close proximity of Dr. Childer's residence to the hospital and explained he felt this is an important issue for all medical personnel.

Commissioner Lee asked County Attorney Joyce if there is a state law which addresses this issue.

County Attorney Joyce replied Montana Code has statutes which define an authorized emergency vehicle. These statutes are regulated by the Department of Justice and it will be necessary to ask this department if private vehicles can be classified as authorized emergency vehicles in order to carry this type of equipment.

Dr. Childers stated State Code allows for red lights for volunteer fire departments with certain restrictions, and suggested following the standard set by State Law.

Commissioner Morgan stated running with red lights sometimes cause more problems than running without. He further stated people in the community are not able to discern a private vehicle with a red light as an emergency vehicle.

Commissioner Schultz suggested a decal signifying the vehicle as an Emergency Medical Responder being placed on the back window of the vehicle could help eliminate this problem. Commissioner Schultz further stated an ordinance allowing physicians responding to an emergency the same status as other Emergency Responders would alert Law Enforcement to the situation.

Commissioner Lee asked County Attorney Joyce if there could be a conflict with State Law if Butte-Silver Bow enacted an ordinance regarding physicians responding to emergencies, and also questioned how to define an emergency call.

County Attorney Joyce stated she received a phone call from Captain Becker of the Montana Highway Patrol who indicated his agency is not in support of an ordinance regarding this issue. Captain Becker stated his concern of liability for Butte-Silver Bow if such an ordinance were passed and a physician responding to an emergency became involved in an accident. County Attorney Joyce further stated it will be necessary to investigate the issue of preemption since the ordinance would apply in the county. Ms. Joyce explained local laws can be more stringent than state laws, but cannot be less stringent.

Segregation – Communication No. 10-417

Roger Ebner, Emergency Management Coordinator, requesting Council’s approval to transfer ownership of a 1970 school bus from Butte-Silver Bow Government to the 15-90 Search and Rescue Team.

Commissioner Moodry asked County Attorney Joyce if Mr. Ebner’s request follows proper public process for transferring public property.

County Attorney Joyce replied two separate ordinances have been discovered which conflict with one another. One ordinance allows for the transference of property owned by the county by following the Municipal Law, which requires two-thirds vote of Council. The other ordinance requires any property valued over \$2,500 be sold at a public auction and must be determined to not be necessary for the conduct of County business. County Attorney Joyce further explained since the vehicle in question was donated to the County by Search and Rescue, it is possible to follow the Municipal provision and allow Council to vote. Ms. Joyce also stated Council should consider repealing one of the ordinances regarding the manner in which Butte-Silver Bow disposes of property.

It was moved by Commissioner Moodry, seconded by Commissioner Sheehy and passed with a unanimous verbal vote to concur with the request of Communication No. 10-417 and place on file.

Segregation – Communication No. 10-421

Jeff Amerman, Director Finance and Budget Department, requesting Council’s authorization for the Chief Executive to sign an engagement letter with Glick Consulting Group to provide technical assistance with the preparation of the 2010 comprehensive annual financial report (CAFR).

Commissioner Moodry stated it was his understanding from last year’s budget cycle it was decided utilizing Glick Consulting to provide technical assistance with the comprehensive annual financial report (CAFR) would not be necessary.

Jeff Amerman explained it would be necessary to utilize Glick Consulting for several more years as there are many new pronouncements and it is important for Butte-Silver Bow to be in compliance with all GAP Pronouncements.

Commissioner Moodry asked Mr. Amerman what the cost for utilizing Glick Consulting would be.

Mr. Amerman replied the cost is approximately \$4,000.

It was moved by Commissioner Moodry, seconded by Commissioner Palmer and passed with a unanimous verbal vote to concur with the request of Communication No. 10-421 and place on file.

SECTION VI

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 10-58 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. [10-58](#)

A RESOLUTION REAFFIRMING THE CITY-COUNTY OF BUTTE-SILVER BOW, MONTANA'S COMMITMENT TO PROVIDING EQUAL PROTECTION UNDER THE LAW AND TO PROVIDING GOODS AND SERVICES TO ITS CITIZENS WITHOUT REGARD TO RACE, RELIGION, OR NATIONAL ORIGIN, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-58 be placed on final reading and passed having been deemed read at length.**

Commissioner Schultz asked County Attorney Joyce if there is any leeway regarding the recommendation from the Judiciary Committee to not publish Council Resolution No. 10-58.

County Attorney Joyce replied a motion was made by the Judiciary Committee to draft the resolution without being published. She further explained the motion was passed and the Judiciary Committee Report was approved at tonight's meeting, therefore the action has been taken to approve the resolution without being published.

Commissioner Schultz asked if segregating the resolution from the Judiciary Committee Meeting Report was the only time he could have taken any action in regard to this matter.

County Attorney Joyce replied in order to take action to change the motion by the Judiciary Committee, the communication should have been segregated before the Judiciary Committee Report was approved.

Commissioner Schultz responded by saying the report recommendation was to hold Communication No. 10-397 in abeyance, and it was his understanding Council would have a chance to vote on it.

Commissioner Shaw explained the communication was held in abeyance in order to refer it to the County Attorney's office to draft the resolution. Commissioner Shaw further explained part of Commissioner O'Leary's motion was to not publish the resolution in order to keep expenses at a minimum. Ms. Shaw restated County Attorney Joyce's statement saying the communication should have been segregated and brought to full Council before the Judiciary Committee Report was approved.

Chief Executive Babb stated the resolution could be posted to Butte-Silver Bow's website in order for the public to have continuous access.

Commissioner Schultz asked what meeting the communication was held in abeyance from.

County Attorney Joyce stated the communication was held in abeyance at the Judiciary Committee Meeting.

Commissioner Schultz stated he had not understood and thought another Judiciary Committee Meeting would be held before being sent to a regular Council meeting for a vote.

Commissioner Palmer clarified the communication is being held in abeyance in the Judiciary Committee and will go back to the next meeting of the Judiciary Committee. The communication can be further discussed at that meeting, but the resolution will have already been passed.

The motion passed with a roll call vote of 11 yeas, and 0 nays.

SECTION VII

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY COUNCIL BILL NO. [10-5](#) ORDINANCE NO. 10-5

1. AN ORDINANCE AMENDING ORDINANCE NO. 204 AND CHAPTER 10.48 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “MISCELLANEOUS DRIVING RULES”; ADDING A NEW SECTION TO BE NUMBERED 10.48.370, B-SB MC AND ENTITLED “PROHIBITION OF USING MOBILE TELEPHONE AND OTHER ELECTRONIC COMMUNICATION DEVICE TO TEXT WHILE OPERATING A MOTOR VEHICLE OR RIDING A BICYCLE ON A PUBLIC HIGHWAY” AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

COUNCIL RESOLUTION NO. [10-55](#)

2. A RESOLUTION APPROVING FOREGONE PROPERTY TAXES ON THE MEADOWLANDS SENIOR APARTMENTS TO BE USED AS MATCHING FUNDS FOR THE HOME INVESTMENT PARTNERSHIP GRANT RECEIVED BY BUTTE-SILVER BOW AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

COUNCIL RESOLUTION NO. [10-56](#)

3. RESOLUTION RELATING TO A PROJECT OF THE PORT OF MONTANA PORT AUTHORITY AND THE ISSUANCE OF A REVENUE BOND TO FINANCE THE COSTS THEREOF; APPROVING THE PROJECT; AUTHORIZING THE ISSUANCE OF A BOND THEREFOR; ALLOCATING A PORTION OF THE COUNTY’S AUTHORITY TO ISSUE RECOVERY ZONE FACILITY BONDS AND AGREEING TO LEVY MILLS AS CERTIFIED BY THE PORT AUTHORITY PURSUANT TO SECTION 7-14-1131, M.C.A.

COUNCIL RESOLUTION NO. [10-57](#)

4. A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE IRISH EYES MAJOR 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 VIII

**ORDINANCES AND RESOLUTIONS
FINAL READING**

COUNCIL RESOLUTION NO. 10-52

1. 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; APPROVING THE PROJECT; AUTHORIZING THE ISSUANCE OF A BOND THEREFOR; AND ALLOCATING A PORTION OF THE COUNTY’S AUTHORITY TO ISSUE RECOVERY ZONE FACILITY BONDS. **It was moved by Commissioner and seconded by Commissioner that Council Resolution No. 10-52 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yea and 0 nay.**

COUNCIL RESOLUTION NO. 10-53

2. A RESOLUTION RECOGNIZING THE ACCEPTNACE OF HOME INVESTMENT PARTNERSHIP PROGRAM FUNDING TO CONSTRUCT THE MEADOWLANDS SENIOR HOUSING PROJECT. **It was moved by Commissioner and seconded by Commissioner that Council Resolution No. 10-53 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 9 yea and 2 nay.**

Commissioner Morgan asked Council members to check their Butte-Silver Bow email accounts regularly.

Commissioner Frasz announced there will be no Fire Advisory Meeting on July 14, 2010.

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