

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

FOR AUGUST 19, 2009

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **AUGUST 19, 2009**, 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, 0 absent.

PRAYER

Commissioner Morgan led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF AUGUST 5, 2009

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of August 5, 2009. 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 commented on the following:

- Pat Holland has been hired as the new Facilities Manager. He will assess all buildings, and will implement long range planning for government buildings as well as continuing the energy efficiency projects. Mr. Holland has been working closely with Bill Melvin and will be a good addition for Butte-Silver Bow.
- Appointments of Mick Ringsak and Jim Kambich to the Natural Resource Damage Advisory Council. Council will be reviewing past events and will put forward an agenda for future plans.
- Negotiations are continuing with bargaining units and are going well. These negotiations should be completed by the time the budget is finished.

SECTION I

PRESENTATION COMMUNICATION NO 09-552

Kevin Bruski, Executive Director Interoperability Montana, requesting time on August 19, 2009 agenda for a presentation explaining Interoperability Montana's Mission and assignment to oversee creation of a communications system for Montana.

Mr. Bruski thanked Council for their support and presented the following:

- Explanation of map hand-out covering the overall plan of State-wide system. Stated there is a significant amount of work being done in this area.
- A second master controller, the "Main Brain" is being purchased, which will be used to split the State in half.
- Informed funding for project comes from 23 sources, most of which is from Homeland Security.
 - \$8,500,000 from the State Legislature FY 07.
 - \$1,000,000 is from 2008 Legislature.
 - \$3,100,000 is being requested thru Senator Tester's office.
- Requested Council send letters and/or e-mails to Senator Tester's office in support of project.

Mr. Bruski asked Council if they had any questions in regard to where the project is headed.

Commissioner Sheehy inquired as to how the project will be funded after completion.

Mr. Bruski stated the project initially began as a membership fee-based system. He further explained the sustainability plan, which uses the same fee-base formula MACO uses for their membership fees. He stated the draft is merely a starting point and continuing input on how to sustain the project long-term is coming from Commissioners and public safety officials in other parts of the State.

Commissioner Morgan commented he and Commissioner Palmer attended an Interoperability conference and were able to see how Interoperability Montana compared with other projects around the nation. He stated Montana was further along than many other states. He commended Interoperability Montana on a job well done.

Mr. Bruski informed Council the project ran strictly with volunteer help until last year when a staff of five was appointed to direct the project.

Mr. Bruski introduced Elizabeth "Wing" Spooner, Special Project Coordinator with the Public Safety Services Bureau, the State Agency that supported the project.

Ms. Spooner commented on the following:

- Publishes an electronic newsletter, "Heard Across Montana", which is a weekly snapshot with updates concerning the project.
- Reminded Council of a Grant received through the Assistance to Firefighter's Grant, which brought in \$1,000,000 and enabled the purchase of radios, base stations and repeaters.
- Her office supports this project and if there were any questions to contact her or Kevin Bruski.

- Created a local and regional business survey, which will be mailed out to businesses in Butte-Silver Bow and surrounding counties. This survey will help determine the products and services provided in the area and will also help analyze the general business climate.
- Attended meetings of the Northwest Chapter of the Montana Ambassadors in Seattle and Delta Airlines in Atlanta as part of BLDC's business outreach efforts.
- Worked closely with the Montana Aerospace Development Association, MERDI, MSE Technology Applications and the Montana Department of Commerce to develop the Butte AeroTec Rocket & Jet Engine Test Facility.
- Worked with former Commissioner Kronenberger to facilitate a meeting for Highland Resources to meet with Local, State and Federal agencies.
- There has been no decline as other communities have seen; rather there has been a steady flow of projects and BLDC is working on new projects every week.

Commissioner Hall inquired if there any jobs lost at MSE.

Mr. Smitham replied yes, some employees were furloughed, as MSE has not received their contract with the Department of Energy as of yet. If MSE has this contract renewed, they are hoping to rehire these employees. He further stated six to eight employees were laid-off earlier in the year due to cost cutting measures.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to place Communication No. 09-562 on file. The motion passed with a unanimous verbal vote.

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
 5. PERSONNEL 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 Palmer segregated A, #1 Committee of the Whole Meeting Report, Section III, Communication 09-482.
- Commissioner Sheehy segregated Communication 09-579.
- Commissioner Schultz segregated Communication 09-558 and Communication 09-577.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1-5, exclusive of Section III, Communication 09-482, Section B 1, and Section C, exclusive of Communications 09-558, 09-577 and 09-579.

Segregation of Communication No. 09-482

Jeff Amerman, Finance and Budget Director requesting time on July 1, 2009 agenda for brief presentation on the budget process and budget schedule.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to change the recommendation to refer to Finance and Budget Committee in order for Mr. Amerman to make his presentation to the Finance and Budget Committee. The motion passed with a unanimous verbal vote.

Segregation of Communication No. 09-558

Bob Rowling, Parks & Recreation Superintendent, requesting the “Dedicated Park Property” Greeley School was constructed on be included on the Surplus Park Property list in order to determine how to legally sell the property.

Commissioner Schultz commented he took issue with the following items in Mr. Rowling’s Letter:

- The School District wants to sell or demolish Greeley School, as it is unsafe. He stated he along with Cindy Shaw and others had gone through the building and felt it was not unsafe or in danger of falling down. He commented the damage was limited to one hallway and he felt the building was salvageable.
- After discovering the School is sitting on a Dedicated Park Property, he doesn’t want to see this property moved to Surplus Property unless an equal size property is dedicated for a Park. He stated it would be wrong to take away the Dedicated Park Property from that area. He further stated there is only one Park in his District and it is South of Grand Avenue, which he feels is unsafe for kids from his side of the District as they need to cross Grand Avenue to reach the Park. He informed Council he would not support anything that would take away a Park from this neighborhood.

Commissioner Palmer commented the Parks and Recreation Board has been looking at all of the Surplus Property and he didn’t feel a motion could be made without referring this to the Committee that has been investigating the issue over the last several years.

Chief Executive Babb stated the Parks and Recreation Board had met and a motion was made to move this issue along. The Parks and Recreation Board met with County Attorney, Eileen Joyce and were advised this is the proper action needed in order for the School District to be able to take care of the building. He further commented the building has some issues which need to be corrected and the building does not belong to Butte-Silver Bow.

It was motioned by Commissioner Schultz and seconded by Commissioner Shaw to deny Communication No. 09-558 and send it back to the Parks and Recreation Board with the request to find a way to find replacement land for the Greeley Park before putting this on the Surplus list.

Commissioner Palmer stated he had a problem with denying this Communication as once the Communication was denied, it could not be acted upon again. The motion to deny would kill this Communication forever. He commented he was in favor of returning the Communication to

the Parks and Recreation Board for further investigation, but did not want to deny this request at this time.

County Attorney, Joyce clarified Mr. Rowling's communication was simply asking this property be declared Surplus Property as this is the first step in the process in determining how the property would be handled. There is still an entire procedure that will need to take place afterward that would address Mr. Schultz's concerns. County Attorney, Joyce further explained by approving this Communication, the property would be included on the list of Surplus Properties of Park land that has already been developed by the Park and Recreation Board. She believes Mr. Rowling is merely advising Council this property was inadvertently left off the Surplus list and is now asking for it to be included on the list in order to follow the statutes to dispose of the property.

Commissioner Schultz inquired if putting the property on the Surplus list was to move the property out rather than to move it along. He stated he felt the property placed on the Surplus list was property to be rid of.

It was moved by Commissioner Schultz and seconded by Commissioner Foley to hold Communication No. 09-558 in abeyance until the Parks and Recreation Board are able to explore replacement land for the Greeley School. The motion passed with a roll call vote of 6 yeas, 5 nays.

County Attorney, Joyce stated the proceeds from the sale of Park property must go into a Park Fund and at that time a determination would be made as to how those funds would be expended. She further explained the first step has to be for this property to be moved to Surplus Property before anything can be decided.

Commissioner Foley stated he wanted to support Commissioner Schultz's motion as he understood the need to save park area for the children in his District.

Commissioner Shaw commented the land was dedicated as Park Land in 1918 and she realized there is a process necessary to take this land from a dedicated Park Property. She questioned County Attorney Joyce if this property was still County property and if a land exchange would be possible.

County Attorney Joyce explained the first step to sell Park Land is to determine the land is no longer of use to the County as a Park and therefore needs to be declared as Surplus. The Law contains provisions as to how the Park Land can be disposed of and this does involve getting an appraisal in order to assure that Market Value is obtained. She stated that a land exchange is a possibility as long there is equal value for the land being exchanged. She reiterated, this cannot happen until this property is declared surplus.

Chief Executive Babb commented the neighborhood wants the building taken care of and the School District also wants to move forward with selling the property. He explained he felt this needed to be taken care of as the School District was being pressured by the neighborhood.

Commissioner Schultz stated he is not against turning the building into Surplus and allowing the School District to sell the building. He explained he is doing this before there is land in place as a replacement and is hoping for a swap with the School District.

Segregation of Communication No. 09-577

Terry Schultz, Commissioner District No. 4 requesting Council’s authorization of a resolution calling for a budget with no increased spending over the previous year.

Commissioner Schultz clarified the intent of this communication with the following:

- His intent was to start with last year’s budget, look at what could be gleaned and add no new spending.
- It was not his intention to take away mandated payroll raises or create any loss of jobs.
- Stated he had no personnel issues except in some departments which he felt were running a little lean.
- Explained he could not in good conscience vote for an increase in the budget to spend money on unnecessary items.
- The intent of this Communication was to look at the “need list” rather than the “want list” and construct the budget from there.

It was moved by Commissioner Schultz and seconded by Commissioner Moodry to refer Communication No. 09-577 to the Finance and Budget Committee. The motion passed with a unanimous verbal vote.

Segregation of Communication No. 09-579

Kristen Rosa, TIFID Administrator, requesting Council’s authorization for the Chief Executive to sign Change Order #4 for the Markovich Construction Contract.

It was moved by Commissioner Sheehy and seconded by Commissioner Moodry to change the recommendation to refer Communication No. 09-579 to the Finance and Budget Committee. The motion passed with a unanimous verbal vote.

SECTION IV

**ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

COUNCIL RESOLUTION NO. 09-53

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS THE NORTH TWENTY-EIGHT FEET OF LOT 5 IN BLOCK 7 OF THE SMITH AND KESSLER ADDITION, 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.

FINAL READING

**COUNCIL BILL NO. 09-4
ORDINANCE NO. 09-4**

1.

AN ORDINANCE AMENDING SUBSECTION 9.01 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND CHAPTER 10.32 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "STOP SIGNS" AND SECTION 10.32.010, B-SB MC; PROVIDING THAT TRAFFIC PROCEEDING ALONG IRON STREET SHALL STOP BEFORE ENTERING THE INTERSECTION OF WYOMING STREET AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. 09-4, Ordinance No. 09-4 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas, 0 nays.**

2.

COUNCIL RESOLUTION NO. 09-51

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF CALIFORNIA STREET ADJACENT OT LOTS 8-11, BLOCK 12 OF THE NOYES AN UPTON RAILROAD ADDITION NO. 2, AND ADJACENT TO LOTS X, 2K, NORTH STAR, SOUTH STAR AND JANUARY LODES 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. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 09-51 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yeas, 0 nays.**

3.

COUNCIL RESOLUTION NO. 09-52

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE RIVERBEND MONOR 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. 09-52 be placed on final reading and passed having been deemed read at length. The motion carried with a vote of 10 yeas, 1 nay.**

Commissioner Frasz announced the next Fire Advisory Board will be held on August 26, 2009 and the following meeting will be held on September 9, 2009.

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 8:37 pm.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER