

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

**For April 6, 2011**

**The Regular Meeting of the Council of Commissioners was called to order Wednesday, April 6, 2011, 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 Frasz was excused.

## **PRAYER**

Commissioner Shaw led the Commissioners in prayer.

Chief Executive Babb called on Gregg Black and Robert Hyatt of Troop 1608, Boy Scouts of America to lead the Pledge of Allegiance.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF MARCH 23, 2011.**

**It was moved by Commissioner Palmer and seconded by Commissioner Shaw to approve the minutes of the Regular Meeting of March 23, 2011. The motion carried with a unanimous verbal vote.**

## **ITEMS NOT ADDRESSED ON THE AGENDA**

Chief Executive Babb announced there will be a Suspension of the Rules to add Communication No. 11-192 to the agenda.

It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried by a roll call vote of 11 yea, 0 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. 11-192 and Communication No. 11-192 to be added to the Agenda of the April 6, 2011 Meeting of the Council.

## **PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

R. Edward Banderbob, 2601 Grand Ave., reported the following regarding the Racetrack-Greeley Town Hall Meeting:

- Approximately twenty residents attended the meeting.
- Reports regarding the pool, the Greeley Area Plan were presented.
- The subject of potholes in Butte-Silver Bow was discussed for approximately one hour.
- Flooding from storm water was discussed for forty five minutes.

Mr. Banderob further stated Council should hold a public meeting once a year in each district.

Mr. Banderob replied to the comments by Commissioner Foley at last week's meeting by stating the focus of his group is on the revitalization of the Greeley Community not the focus of the Greeley Building.

## **CHIEF EXECUTIVE'S REPORT**

Chief Executive Babb reported the following:

- Two Bills regarding the Veteran's Home, House Bill 439 and House Bill 296, are in the Finance and Claims Committee of the Legislature. These bills will go to the Senate after coming out of this committee.
- Several legislative matters, which could affect the Health Department, are being closely monitored. These include programs for Family Planning, WIC, Tobacco Prevention and Junk Vehicles.
- Invited Jeff Amerman, Director BSB Finance and Budget Department to speak regarding House Bill No. 316.

Mr. Amerman explained House Bill 316 would take 10% from the Hard Rock monies which currently go back to the County. Mr. Amerman further explained the State retains 75% of the Metal Mines Tax, with 25% going to the County and House Bill 316 would take 10% of this 25% leaving the County with 22.5%.

- There will be a Community Meeting at Montana Tech April 25, 2011 regarding changes to the way the Post Office will sort mail and the jobs that may be lost in the community.
- Robert Macioroski, Director of BSB Land Office will be making a presentation to Council regarding a question from a citizen about a road closure on Iron Street between Wyoming and Utah.

## **SECTION I BID OPENING**

**SEALED BIDS ARE HEREBY INVITED FOR THE NATIONAL HOTEL DEMOLITION.  
Proof of Publication was noted.**

Gary Corbin, opened four bids from the following:

Smith Contracting Co.	Butte, MT.	\$46,046.00
Beckman Excavating	Butte, MT.	\$58,000.00
Schnell Excavating	Butte, MT.	\$74,200.00
Gilman Excavating	Butte, MT.	\$84,500.00

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried with a unanimous verbal vote to refer the bids to the Community Enrichment Department and report back to Council.**

**SECTION II**

**BID OPENING**

SEALED BIDS ARE HEREBY INVITED FOR BOILER CONSTRUCTION AND REPLACEMENT AT THE BUTTE-SILVER BOW HEALTH DEPARTMENT. **Proof of Publication was noted.**

Pat Holland, Manager BSB Public Buildings opened three bids from the following:

Lockmer Plumbing & Heating	Butte, MT.	\$ 99,550.00
	Alternate No. 1	\$ 5,694.30
Galley Plumbing & Heating	Anaconda, MT	\$104,530.00
	Alternate No. 1	\$ 6,765.00
Tri Co. Mechanical & Electrical	Helena, MT	\$ 95,780.00
	Alternate No. 1	\$ 6,470.00

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried with a unanimous verbal vote to refer the bids to the Facilities Manager and report back to Council.**

**SECTION III**

**BID OPENING**

SEADLED BIDS ARE HEREBY INVITED FOR BOILER CONSTRUCTION AND REPLACEMENT AT THE BUTTE-SILVER BOW CIVIC CENTER. **Proof of Publication was noted.**

Pat Holland, Manager BSB Public Buildings opened three bids from the following:

Galley Plumbing & Heating	Anaconda, MT.	\$305,500.00
	Alternate No. 1	\$ 10,250.00
Lockmer Plumbing & Heating	Butte, MT	\$310,250.00
	Alternate No. 1	\$ 6,860.50
Tri Co. Mechanical & Electrical	Helena, MT	\$ 275,870.00
	Alternate No. 1	\$ 11,000.00

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried with a unanimous verbal vote to refer the bids to the Facilities Manager and report back to Council.**

**SECTION IV**

**PUBLIC HEARING**

TO HEAR PUBLIC COMMENT REGARDING THE BUTTE-SILVER BOW CHEMICAL DEPENDENCY SERVICES' IMPLEMENTATION OF THE SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT. (Communication No. 11-151 being held in the Committee of the Whole). **Proof of Publication was noted.**

Tom McGloin, Assistant Health Officer, Addictive Services, explained the Chemical Dependency Bureau requires a yearly update of the County Plan with a Public Hearing.



### **Segregation – Communication No. 11-123**

Lee Phillips, Director, Butte-Silver Bow Public Library, requesting Council's authorization of a budget transfer.

Commissioner Foley stated Communication No. 11-123 was held pending clarification of the request which was clarified and approved during the Finance and Budget Meeting.

**It was approved by Commissioner Foley, seconded by Commissioner Shaw and passed by a unanimous verbal vote to change the recommendation to approve and place on file.**

### **Segregation – Communication No. 11-181**

Kristen Rosa, TIFID Administrator, requesting Council's authorization for the Chief Executive to sign the Notice of Award to Knife River Corporation for construction of the TIFID Waste Water Line.

Chief Executive Babb explained the County Attorney is examining the bid submission to ensure the bid meets all qualifications and standards and asked Council to place Communication No. 11-181 on file.

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and passed with a unanimous verbal vote to place Communication No. 11-181 on file.**

## **SECTION VI**

## **COMMUNICATIONS TO BE READ AND ACTED UPON**

### **11-159**

Brian Holland and Dave Fawcett, Butte-Silver Bow Public Archives Technical Review Committee, requesting time on the April 6, 2011 agenda to make a presentation on the status of the Archives Building Project and the Archives operations for the next budget term.

Dave Fawcett, 2240 Blacktail Loop gave the following update:

- The project is near completion with the main portion of the building finished.
- The project was completed within the allotted timeframe.
- The power bills are coming in at approximately one-half of expected costs.
- Lighting rebates have been applied for.
- The parking lot is under construction with an expected completion date of June 1, 2011.
- The architect has requested an additional fee of \$7,400 due to unanticipated travel and expenses.
- The project will be under budget when completed.

Brian Holland, Chairman, Archives Board reported the following:

- Thanked Council and local government for their support and stated the project has been very successful.
- The Archives Board has been meeting in regards to establishing a policy to deal with use of the meeting rooms at the Archives.
- The budget for the Archives is currently under the Library and needs to set up on a separate budget line.

Commissioner Palmer thanked Mr. Fawcett, Mr. Holland and Ellen Crain for their hard work and for a successful project.

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and passed with a unanimous verbal vote to place Communication No. 11-159 on file.**

[11-174](#) Mollie Maffei, Deputy County Attorney, requesting Council's authorization for the Chief Executive to sign an easement agreement with Don R. and Lisa G. Kelly.

Mollie Maffei, Deputy County Attorney explained the following:

- Butte-Silver Bow declared The Highland Road a County Road in August of 2006 and was subsequently sued.
- The property now has new owners and Ms. Maffei requested authorization for the Chief Executive to sign the easement agreement negotiated with the new owners.
- Work regarding the law suit and negotiations were performed by the Public Works Department, Bob Everly, Ellen Crain, Rob Macioroski, and the staff of the County Attorney's Office.

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and passed with a unanimous verbal vote to concur with the request of Communication No. 11-174, have the Chief Executive sign the easement agreement and place on file.**

#### **Communication No. 11-192**

Rick Larson, Operation Manager, Utilities Division, Butte-Silver Bow Public Works Department, notifying Council of a bid opening April 13, 2011 for the Sanitary Sewer CCTV Project.

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and passed with a unanimous verbal vote to concur with the request of Communication No. 11-192 and schedule the bid opening for April 13, 2011.**

## **SECTION VII**

### **SUSPENSION OF THE RULES FOR FINAL PASSAGE**

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried by a roll call vote of 11 yea and 0 nay to suspend the rules for the purpose of passing Council Resolution No.11-15 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. [11-15](#)**

RESOLUTION AMENDING RESOLUTION NO. 10-90 TO REFLECT A LOAN CLOSING DATE IN 2011. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Resolution No. 11-15, be placed on final reading and passed having been deemed read at length. The motion passed with a roll call vote of 11 yea and 0 nay.*

**SECTION VIII**

**ORDINANCES AND RESOLUTIONS –  
REFERRED TO JUDICIARY**

- 1. COUNCIL BILL NO. – 11-3  
ORDINANCE NO. – [11-3](#)**

AN ORDINANCE AMENDING CHAPTER 17 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “ZONING”; AMENDING SECTIONS 17.04.235; 17.08.020, 17.18.020, 17.28.020 AND 17.30.020, B-SB MC AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

- 2. COUNCIL BILL NO. – 11-4  
ORDINANCE NO. – [11-4](#)**

AN ORDINANCE AMENDING TITLE 6 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “ANIMALS”; AMENDING SECTION 6.08.030 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

- 3. COUNCIL RESOLUTION NO. [11-14](#)**

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 HEALTH DEPARTMENT FROM THE MONTANA STATE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, MONTANA WIC PROGRAM.

**SECTION IX**

**ORDINANCES  
SECOND READING**

- 1. COUNCIL BILL NO. [11-2](#)  
ORDINANCE NO. 11-2**

AN ORDINANCE CREATING A NEW CHAPTER IN THE BUTTE-SILVER BOW MUNICIPAL CODE TO BE NUMBERED CHAPTER 2.90 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) AND ENTITLED “TOURISM BUSINESS IMPROVEMENT DISTRICT BOARD OF TRUSTEES”; PROVIDING FOR A BOARD OF TRUSTEES AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Bill No. 11-2, Ordinance No. 11-2 be placed on seconded reading and be passed having been deemed read at length. The motion passed with a roll call vote of 11 yea, and 0 nay.*

**SECTION X**

**ORDINANCES AND RESOLUTIONS  
FINAL READING**

**COUNCIL BILL NO. 11-1  
ORDINANCE NO. [11-1](#)**

AN ORDINANCE CREATING A NEW CHAPTER IN THE BUTTE-SILVER BOW MUNICIPAL CODE TO BE NUMBERED CHAPTER 10.22 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) AND ENTITLED “USE OF ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE” AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Bill No. 11-1, Ordinance No. 11-1 be placed on final reading and be passed having been deemed read at length.*

Commissioner Schultz commented most states have enacted some form of this bill and the need for this type of regulation is necessary for public safety.

**The motion passed with a roll call vote of 6 yea and 5 nay.**

**2. COUNCIL RESOLUTION NO. 11-11**

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF THE ALLEY LOCATED BETWEEN WEST PARK STREET AND WEST GALENA STREET ADJACENT TO LOT 7, A PORTION OF LOT 8, ALL OF LOT 48 AND THE WEST 32 FEET OF LOT 49 OF THE ORIGINAL BUTTE TOWNSITE 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 Shaw that Council Resolution No. 11-11, be placed on final reading and be passed having been deemed read at length. The motion passed with a roll call vote of 11 yea, and 0 nay.*

**3. COUNCIL RESOLUTION NO. 11-12**

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS LOT 19 OF THE NORTH STAR – SOUTH STAR AND JANUARY LODES LOCATED IN SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST P.M.M., PARCEL NO. 25810, 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 and seconded by Commissioner Shaw that Council Resolution No. 11-12, be placed on final reading and be passed having been deemed read at length. The motion passed with a roll call vote of 11 yea, and 0 nay.*

Commissioner Palmer reminded Council of a demonstration at the Public Works Corral on Thursday, April 7, 2011 at 5:00 p.m. and stated the tour of the Detention Center, April 20, 2011 at 5:00 p.m. has been rescheduled to 5:30 p.m. on the same date.

Commissioner Henderson reminded Council of a Town Meeting at the Civic Center, April 11, 2011 at 7:00 p.m. concerning the proposed routes of the Highland Mine.

**ADJOURN**

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried with a unanimous verbal vote to Rise to the Call of the Chair.**

The meeting adjourned at 8:40 p.m.

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**CHIEF EXECUTIVE**

**ATTEST:**

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**CLERK AND RECORDER**