

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

**For FEBRUARY 1, 2012**

**The Regular Meeting of the Council of Commissioners was called to order Wednesday, February 1, 2012, 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 Hall led the Commissioners in prayer.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JANUARY 18, 2012.**

**It was moved by Commissioner Palmer and seconded by Commissioner Shaw to approve the minutes of the Regular Meeting of January 18, 2012. 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. 12-144 to the agenda.

It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried by a roll call vote of 10 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 Communication No. 12-144 to be added to the Agenda of the February 1, 2012 Meeting of the Council of Commissioners.

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

Susan Huckeby, 2001 Aberdeen, President, Friends of the Butte-Silver Bow Public Library, informed Council of a legal issue between the Library Board of Trustees and the Library Director with the Friends of the Butte Silver Bow Public Library and explained the following:

- On December 13, 2011, Library Director Lee Phillips, on behalf of the Library Board of Trustees, filed a complaint against the Friends of the Library with the State Office of Consumer Protection alleging the Friends were misusing their funds.
- The Friends' legal counsel, Mr. William McCarthy of Worden Thane PC of Missoula, addressed the Library Board of Trustees at their January 18, 2012 meeting and asked three questions.

1. “Who filed the complaint”? Library Director Phillips raised her hand and answered “I did, on behalf of the Board”. Patty Higginbotham, Library Trustee Chair, responded “yes”.
  2. When did the Trustees hold a meeting to make this decision? Director Phillips answered “We had a poll”. (No date or minutes were given.)
  3. Are any of the Trustees willing to work to resolve the issue? No response was given.
- The Friends of the Library believe the Library Trustees’ “poll” was an illegal meeting, violating Montana State Law requiring open meetings by a government entity.
  - The Friends of the Library deny the allegations made by the Trustees to the Office of Consumer Protection and have filed an answer to the allegations.
  - The Friends contacted County Attorney Joyce in April of 2011 to ask her assistance in resolving the issues between the Friends, the Library Trustees and Director Phillips.
  - The Friends of the Butte-Silver Bow Public Library wishes to notify Council a lawsuit against the County may be filed to void the illegal “poll” meeting by the Library Board of Trustees.
  - The Friends of the Library would rather the Library Trustees publicly admit the meeting violated the Montana Open Meeting Laws, withdraw their complaint about the Friends to the Office of Consumer Protection, and agree to make no further complaints.

Ms. Hucceby concluded by thanking Chief Executive Babb, the Council of Commissioners and County Attorney Joyce for their time and assistance in resolving the issue. Ms. Hucceby further stated she could be reached at 723-4800 to answer any questions.

## **CHIEF EXECUTIVE’S REPORT**

Chief Executive Babb reported the following:

- Announced the retirement of Bob Rowling from Butte-Silver Bow Parks & Recreation Department, and thanked him for his service.
- Mr. Rowling stated he was hired by Butte-Silver Bow approximately 45 years ago and was thankful for the position.
- Announced Butte-Silver Bow has received two awards for the Big Hole Diversion Dam, one being a Concrete Excellence Award, the other for 1<sup>st</sup> Place in the category for Water and Sewer Utilities.
- The Economic Outlook Seminar will be held February 2, 2012 at the LaQuinta from 9:00 a.m. to 11:00 a.m.
- Butte-Silver Bow has received the Essential Air Service Grant, and a meeting regarding future plans for the Airport will be held February 7, 2012 at 7:30 p.m. at the Chamber of Commerce.
- Union negotiations are ongoing.
- The Chinese New Year Parade will start at the Courthouse Saturday, February 4, 2012 at 3:00 p.m.

- 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 Palmer segregated Section VII of the Committee of the Whole Meeting Report, Communication No. 9-387.

**It was then moved by Commissioner Palmer, seconded by Commissioner Shaw and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4, exclusive of Section VII of the Committee of the Whole Meeting Report, Communication No. 9-387, and Section B, 1 through 34.**

**Segregation – Communication No. 9-387**

Dan Dennehy, Director, Butte-Silver Bow Public Works Department, requesting preliminary discussion regarding Road Maintenance Districts and fees begin in the Public Works Committee.

Commissioner Palmer explained the recommendation for Communication No. 9-387 is to refer the communication to the Committee of the Whole Sitting as the Public Works Committee. Commissioner Palmer further explained it would be simpler to leave the communication in the Committee of the Whole for the present time as there is a Public Hearing scheduled for the February 8, 2012 Meeting.

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and passed with a unanimous verbal vote to change the recommendation to refer Communication No. 9-387 to the Committee of the Whole.**

**Suspension of the Rules to add Communication No. 12-144 to the agenda.**

Jeff Amerman, Director, Butte-Silver Bow Finance and Budget Department, requesting Council's authorization for the Clerk of the Court to maintain a \$200 petty cash fund to be utilized to provide jury incidentals that were previously reimbursed by the state.

Jeff Amerman explained the following:

- The Clerk of the Court is requesting the petty cash fund to cover noon breaks and snacks for the current civil trial.
- The state previously covered these costs but will no longer cover them.
- Judge Krueger requested each lawyer to contribute \$500 to cover the expenses associated with the trial.
- The funds have been deposited the Treasurer's Office.
- An Imprest Account has been established for the Clerk of the Court's use.
- Money is advanced to the petty cash fund as receipts are received.

Commissioner Andersen asked what will happen to the remaining \$800 if each lawyer contributed \$500 and \$200 was placed in a petty cash fund.



*was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Resolution No. 12-5 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.*

**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 7:55 p.m.

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**CHIEF EXECUTIVE**

**ATTEST:**

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**CLERK AND RECORDER**