

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

For FEBRUARY 2, 2011

The Regular Meeting of the Council of Commissioners was called to order Wednesday, February 2, 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

10 present, 0 absent, Commissioners Palmer and Granger were excused.

PRAYER

Commissioner Shaw led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JANUARY 19, 2011 AND THE SPECIAL MEETING OF JANUARY 26, 2011.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan to approve the minutes of the Regular Meeting of January 19, 2011 and the Special Meeting of January 26, 2011. 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:

- The hearing for House Bill No. 296, the Southwest Montana Veteran's Home Bill, will be held in Helena at 3:00 p.m. Thursday February 3, 2011. A bus is scheduled to leave Butte at 11:00 a.m. for anyone interested in going, and will be free of charge.
- Progress is being made regarding the Greeley School with the deeds being prepared and executed through Butte-Silver Bow Land Sales Office and the County Attorney. Revonda Stordahl with the Public Housing Authority is drafting a letter to aid with the completion of Phase II with School District No. 1
- Appropriations for Butte-Silver Bow are ready.
- Bills in the legislature are being monitored closely.

SECTION I

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 Morgan made a friendly amendment to Section I, Number 3, Judiciary Committee Meeting Report to change the recommendation of Resolution No. 11-3 to move to final reading instead of second reading.

Commissioner Foley segregated Section I, Consent Agenda, B, Communications, Number 15, Communication No. 11-52.

It was then moved by Commissioner Shaw, seconded by Commissioner Morgan and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4 and Section B, 1-21 with the exception of number 15, Communication No. 11-52

Segregation – Communication No. 11-52

Marko Lucich, Executive Director, Butte Chamber of Commerce and Kelly Smith, President, Silver Bow Area Lodging and Hospitality Association, requesting Council's authorization of the creation of the Tourism Business Improvement District (TBID) and adoption of a Resolution of Intent to create the district.

Commissioner Foley explained he segregated Communication No. 11-52 in order for Mr. Lucich to give an explanation of the Tourism Business Improvement District. Commissioner Foley also asked Mr. Lucich how much money would be generated by this and asked how many other communities in the State have a TBID.

Marko Lucich, 1000 George Street, Executive Director of Butte-Silver Bow Chamber of Commerce explained the following:

- Approximately \$225,000 to \$250,000 will be generated as a result of the TBID.
- There are ten communities and one pending in Montana with a TBID.
- The money will be collected in November with property taxes.
- Hotel owners from Butte-Silver Bow are bringing the TBID forward and will be in control of the funds.
- The city of Billings collected approximately \$800,000 last year through their TBID.

It was moved by Commissioner Foley, seconded by Commissioner Morgan and passed with a unanimous verbal vote to concur with the request of Communication No. 11-52 and place on file.

SECTION II

COMMUNICATIONS TO BE READ AND ACTED UPON

Ed Randall, Manager Butte-Silver Bow Community Enrichment/Animal Services Department, requesting Council's approval for an emergency budget allocation allowing Butte-Silver Bow Community Enrichment Department to demolish 701 S Utah Street (National Hotel).

Ed Randall explained the following:

- The National Hotel burned in August of 2010 and Butte-Silver Bow has been working for the past two months to either have the building demolished or repaired.
- A letter to this effect was sent out by the Zoning Department on January 4, 2011 to the owner of record.
- The owner of record has stated he does not have the funds to demolish the building.
- The insurance settlement is no longer available.
- Funds of approximately \$70,000 are being requested in order to demolish the building as soon as possible.
- It will be necessary to hold a public hearing and to draft a resolution to receive the funds for an unanticipated expense.
- The County Attorney has been working on the process and a lien will be placed on the property.
- Time is of the essence regarding this issue as the building is dangerous as well as an eyesore.

Commissioner Shaw asked County Attorney Joyce if Butte-Silver Bow has any recourse other than placing a lien on the property to recoup expenses incurred by the demolition.

County Attorney Joyce replied legislation was passed in 2007 which allows local government to attach property to bring an action for debris removal if it is determined the underlying property is worth less than the cost of the debris removal. Robert Macioroski, Land Records Director, is attempting to determine the value of the land, and it is believed Butte-Silver Bow will be able to sue the owner as well as attach any other property he owns.

Commissioner Frasz asked Ed Randall if the Insurance Company reimbursed the Fire Department and the Contractor who helped with the investigation of the fire.

Ed Randall replied the Insurance Company did pay the Fire Services Department for the work performed during the fire investigation.

Commissioner Schultz asked Mr. Randall if there were any salvage options.

Ed Randall explained Butte-Silver Bow does not own the property and it would not be legal for Butte-Silver Bow to sell anything obtained from the building.

Commissioner Schultz asked if the debris from the demolition would be taken to the landfill.

Mr. Randall replied yes, the debris will be hauled to the landfill.

Commissioner Schultz asked why salvage is not possible if Butte-Silver Bow is hauling the debris to the landfill.

Mr. Randall restated the property is not owned by Butte-Silver Bow, but he is willing to work with the Historic Preservation Office and the owner to salvage small items such as doors. Mr. Randall asked County Attorney Joyce to give her opinion regarding the matter.

County Attorney Joyce explained Butte-Silver Bow does not own the building, but could possibly work with the owner to hire a salvage company and apply any monies toward the cost of the demolition of the building. Ms. Joyce further explained Butte-Silver Bow will sue the owner of the building for any costs incurred by the demolition.

Commissioner Schultz asked if it would be possible to delay the disposal of debris from the demolition until other options have been investigated in order to keep the debris from being brought to the landfill.

Ed Randall explained the demolition of the building is necessary because of the safety issues and leaving the debris would create other liabilities. He stated moving the debris twice would not be cost effective. Mr. Randall further explained an environmental health issue is also involved since there is asbestos in the building and stated the best option is to demolish the building and bring the debris to the landfill.

Commissioner Walker asked Mr. Randall who is responsible for the property at the present time.

Ed Randall asked County Attorney Joyce to answer Commissioner Walker's question.

County Attorney Joyce stated the owner has liability for the building, and stated Butte-Silver Bow's liability is involved in the steps taken by the County to either secure or demolish the building.

Commissioner Walker asked County Attorney Joyce to explain the process used to abate the buildings in these types of situations and if Butte-Silver Bow should be involved with the insurance companies in order to prevent the cost of demolition being charged to Butte-Silver Bow.

County Attorney Joyce explained Representative Sesso tried unsuccessfully to introduce a bill in 2007 to lien fire proceeds after a fire. However, legislation was passed which allows an action to be brought against an owner if the value of the land is less than the cost of demolition. Ms. Joyce further explained Butte-Silver Bow follows the process set forth in the uniform code for the abatement of dangerous buildings and stated the owner of the building must be given notice as to what makes the building dangerous and a thirty day appeal process is also contained in the code. The process for this building took longer than usual due to the arson investigation which lasted several months.

Commissioner Walker asked Mr. Randall if it would be possible to use the ARCO repository for the waste of the building once it has been demolished.

Ed Randall stated he did not know if use of the repository for the debris was a possibility, but stated he would contact the Environmental Health Department to find out if it was a possibility. Mr. Randall further stated, in his opinion, the waste will need to be placed in the demolition side of the Butte-Silver Bow Landfill since there is asbestos in the building.

Commissioner Foley commented Butte-Silver Bow has no choice other than to demolish the building as it is both an eyesore and a danger.

It was moved by Commissioner Foley and seconded by Commissioner Frasz to concur with the request of Communication No. 11-47 and proceed with the demolition of 701 Utah and place on file.

Commissioner Shaw stated the I C School as well as the Longfellow School was demolished by Butte-Silver Bow and explained both buildings contained asbestos therefore making salvage of the buildings impossible.

Commissioner Schultz commented he did not wish to see the debris remain at the site for a long period of time, but felt another two weeks to investigate the possibility of salvaging the debris could be an option. Commissioner Schultz also asked Mr. Randall to report the cost of the demolition to Council once the building was abated.

Ed Randall replied a complete report will be provided to Council after the demolition has taken place.

The motion passed with a unanimous verbal vote.

Chief Executive Babb stated Butte-Silver Bow is responsible for the abatement of dangerous buildings and since the owner of the building has walked away the County is responsible for the demolition of the building.

Commissioner Schultz stated a Mechanics Lien should be placed on buildings as part of the process when Butte-Silver Bow responds to fires such as this.

SECTION III

SUSPENSION OF THE RULES FOR FINAL PASSAGE

It was moved by Commissioner Shaw, seconded by Commissioner Morgan and carried by a roll call vote of 10 yea and 0 nay to suspend the rules for the purpose of passing Council Resolution No. 11-4 and Council Resolution No. 11-5 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. 11-4

A RESOLUTION ACCEPTING THE DONATION BY WORLD MUSEUM OF MINING (WMM) TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, THE REAL PROPERTY HEREIN DESCRIBED ON EXHIBIT "A" TO THIS RESOLUTION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. *It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 11-4 be placed on final reading and be passed having been deemed read at length. The motion passed with a roll call vote of 9 yea and 1 nay.*

COUNCIL RESOLUTION NO. [11-5](#)

A RESOLUTION DECLARING THE INTENTION OF THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA TO CREATE A TOURISM BUSINESS IMPROVEMENT DISTRICT, TO BE KNOWN AS SPECIAL TOURISM BUSINESS IMPROVEMENT DISTRICT NO. 1, FOR THE PUR-

EQUIPMENT TO BE EXPENDED IN THE ROAD FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. *It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 11-3 be placed on final reading and be passed having been deemed read at length. The motion passed with a roll call vote of 10 yea and 0 nay.*

Commissioner Foley announced Friday's tour would be leaving from the WET building at 9:00 a.m. rather than in front of the Courthouse as previously planned.

Commissioner Andersen reminded Council of the Annual Wine Tasting on February 12, 2011.

ADJOURN

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

The meeting adjourned at 8:15 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER