

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

**For January 4, 2012**

**The Regular Meeting of the Council of Commissioners was called to order Wednesday, January 4, 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**

12 present, 0 absent.

## **PRAYER**

Commissioner Hall led the Commissioners in prayer.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF DECEMBER 21, 2011.**

**It was moved by Commissioner Palmer and seconded by Commissioner Shaw to approve the minutes of the Regular Meeting of December 21, 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. 12-69 to the agenda.

It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried by a roll call vote of 12 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 Communication No. 12-69 to be added to the Agenda of the January 4, 2012 Meeting of the Council.

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

None

## **CHIEF EXECUTIVE'S REPORT**

Chief Executive Babb reported the following:

- The January 3, 2012 meeting regarding the Postal Service consolidations was well attended, with approximately 250 letters being delivered to representatives from the Postal Service.
- A meeting with Robert Peccia & Associates has been scheduled for Thursday, January 5, 2012, to review the latest developments regarding the Road Plan.
- Contract negotiations with unions are ongoing.
- Wished all a Happy New Year.

**SECTION I**

**PUBLIC HEARING**

TO HEAR PUBLIC COMMENT REGARDING THE UPDATE TO BUTTE-SILVER BOW’S PARA-TRANSIT PLAN FOR DISABLED TRANSPORTATION. (Communication No. 11-735 being held in the Committee of the Whole). **Proof of Publication.**

Commissioner Palmer announced the Public Hearing will be rescheduled for January 18, 2012 because the advertising was not completed in time for tonight’s meeting.

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and passed with a unanimous verbal vote to hold Communication No. 11-735 in abeyance and reschedule the Public Hearing for January 18, 2012.**

**SECTION II**

**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 Shaw segregated Section II, Item No. 59, Communication No. 12-59.

**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, and Section B, Items 1 through 64, exclusive of No. 59, Communication No. 12-59.**

**Segregation – Communication No. 12-59**

Jane Faught, President, Mai Wah Society, requesting Council’s permission to conduct Butte’s Chinese New Year parade through the Uptown area and set off fireworks February 4, 2012.

Commissioner Shaw stated the letter from Ms. Faught mistakenly states the fireworks will be set off at the corner of Mercury and Idaho. The correct location is Mercury and Colorado. Ms. Shaw further stated the signature from Montana Department of Transportation has not yet been received and, therefore, the Communication will need to be held in abeyance.

**It was moved by Commissioner Shaw, seconded by Commissioner Foley and carried with a unanimous verbal vote to change the recommendation to hold Communication No. 12-59 in abeyance.**

**Suspension of the Rules to add Communication No. 12-69 to the agenda.**

## COMMUNICATION NO. 12-69

Dave Palmer, Chairman, Butte-Silver Bow Council of Commissioners, requesting Council discuss and agree on a process to be followed to make the appointment of interim City-Court Judge for the City-County of Butte-Silver Bow, Montana.

Chief Executive Babb explained Council previously determined interviews of all candidates for the interim City-Court Judge would be held January 9, 2012. However, since that time, the number of candidates has reached 47. Chief Executive Babb further explained it is impractical to interview all forty seven candidates at one meeting and Council will need to determine an alternative procedure.

Commissioner Palmer recommended the interviews be split into two nights, with three questions being asked of each candidate. Commissioner Palmer further recommended that the questions be given to all candidates prior to the interviews in order to prevent any unfair advantage to those receiving interviews the first night. Commissioner Palmer suggested the three following questions be asked of each candidate:

1. Please describe what makes you the best and most qualified candidate for this position.
2. What steps would you take to restore credibility to this office?
3. Do you have any conflicts which would preclude you from assuming this position immediately?

Commissioner Henderson asked if the number of candidates would be narrowed to five or six after the interviews are conducted.

Commissioner Palmer replied Council will need to decide on the process, and stated it will be necessary for the successful candidate to receive a majority number of votes.

Commissioner Morgan asked what process Council will take in order to narrow the applicants from 47 to 5.

Commissioner Hall suggested using a scoring system from one through ten, with the candidates receiving the highest score moving on to the next level.

Commissioner Andersen asked if it would be possible to narrow the field of applicants to be interviewed according to experience and qualifications.

County Attorney Joyce replied the only qualifications required to apply for the City-Court Judge position are the applicant must be a resident of Butte-Silver Bow and must be able to pass the certification test. County Attorney Joyce further stated using certain criteria to eliminate candidates could be subject to challenge. County Attorney Joyce suggested each Commissioner vote for one candidate after the interviews are conducted, which would narrow the field considerably after the first vote.

Chief Executive Babb suggested asking each candidate to submit their answers in writing prior to the interviews.

Commissioner Andersen asked if there is a law which states that all of the applicants must be interviewed, or if Council could eliminate some of the applicants by their resumes.

Commissioner Schultz stated his agreement with Commissioner Andersen and suggested each Commissioner, after studying the applicants' resumes, bring a list of the five candidates who scored the highest to the first meeting. Commissioner Schultz further stated this process should be used until one of the candidates receives a majority of votes.

Commissioner Ralph stated Council owes all applicants the courtesy of an interview since it was already publicly stated that every candidate would be interviewed. Commissioner Ralph further stated the questions Commissioner Palmer suggested were great questions.

Commissioner Foley commented he was in support of Commissioner Palmer's suggestions and also supported Commissioner Hall's scoring procedure.

Commissioner Palmer agreed with the scoring process suggested by Commissioner Hall and stated all of the applicants deserved an interview.

Commissioner Shaw stated it is important to interview all applicants, and asked how the interview times would be determined.

Commissioner Palmer replied his suggestion is to interview the applicants in alphabetical order. Commissioner Palmer stated there are two other suggestions; interview by order in which each applicant filed, or contact each applicant and give them a random number when they come in.

Commissioner Frasz stated his agreement with Commissioner Palmer to interview the applicants in alphabetical order. Commissioner Frasz further stated each Commissioner should be able to use their own criteria for scoring the candidates.

Commissioner Schultz stated a process needs to be place in case this situation should arise again.

Commissioner Ralph stated each Commissioner should pick one candidate.

Commissioner Hall stated her agreement with interviewing all of the applicants.

Commissioner Morgan commented he did not agree with using the 10-point scoring system and stated each Commissioner should be able to use their own method of ranking the candidates.

County Attorney Joyce clarified the successful candidate must receive a majority number of votes and the selection must be made before January 15, 2012.

**It was moved by Commissioner Palmer, and seconded by Commissioner Henderson to concur with Communication No. 12-69, interview all candidates in alphabetical order at the Special Meetings of January 9, January 10 and January 11, 2012, ask all candidates three predetermined questions, with each Commissioner scoring the candidates as they choose. Each Commissioner will choosetwo candidates, which will be narrowed down with votes until one candidate receives a majority of votes.**

Commissioner Foley asked who will be asking the questions of each candidate.

Commissioner Palmer replied he will ask the questions.

Chief Executive Babb stated any notes or scoring of the candidates by Commissioners become public record.

Commissioner Palmer asked County Attorney Joyce if the selected candidate will need to be sworn in within the 30-day period of Judge Kambich's resignation.

County Attorney Joyce replied Council's decision needs to be made within thirty days, the selected candidate does not have to be sworn in within the thirty day time period.

Commissioner Palmer stated one of the candidates questioned if it is possible to keep another job on a part-time basis and explained the requirement of the office is to be available in the office according to the posted hours, which are Monday through Friday from 9:00 a.m. to 5:00 p.m. except for holidays.

Chief Executive Babb asked County Attorney Joyce if the chosen candidate was not able to pass the certification, could the candidate who receives the second highest number of votes be selected to fill the position.

County Attorney Joyce replied that was a decision Council could make.

Commissioner Henderson asked when the next certification test would be held.

County Attorney Joyce replied the next certification test will be held in April, and explained the Courts of Limited Jurisdiction will be available to help the selected candidate with any questions or concerns they may have in order to fulfill the duties of the office. Ms. Joyce further explained it is possible for the appointed candidate to retake the certification test if they were to fail the test initially.

Commissioner Henderson asked if a Veteran's preference could be utilized for ranking the candidates.

County Attorney Joyce replied since a specific point system is not being used, it will not be possible to utilize the Veteran's preference.

**The motion passed with a unanimous verbal vote.**

### **SECTION III**

### **ORDINANCES SECOND READING**

### **COUNCIL BILL NO. [11-12](#) ORDINANCE NO. 11-12**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 403 AND CHAPTER 18 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED FLOODPLAIN REGULATIONS; AMENDING CHAPTER 18.08, SECTIONS 18.08.065, 18.08.180, 18.08.216, 18.08.240, 18.08.285; CHAPTER 18.12, SECTIONS 18.12.010, 18.12.030, 18.12.050, 18.12.060; CHAPTER 18.16, SECTIONS 18.16.005, 18.16.010, 18.16.020, 18.16.030, 18.16.040; CHAPTER 18.20, SECTION 18.20.005 AND CHAPTER 18.28, SECTION 18.28.110 REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Bill No. 11-12, Ordinance No. 11-12 be placed on second reading and passed, having been deemed read at length. The motion carried with a roll call vote of 12 yea and 0 nay.**

Commissioner Shaw announced the Library Board will meet January 18, 2012.

Commissioner Frasz announced the January 5, 2012 meeting for the East Butte RRA has been cancelled and stated the Fire Advisory Council Meeting will be held on January 11, 2012.

**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 8:30 p.m.

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**CHIEF EXECUTIVE**

**ATTEST:**

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**CLERK AND RECORDER**