

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

For July 20, 2011

The Regular Meeting of the Council of Commissioners was called to order Wednesday, July 20, 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 Hall was excused.

PRAYER

Commissioner Shaw led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JULY 6, 2011.

It was moved by Commissioner Palmer and seconded by Commissioner Shaw to approve the minutes of the Regular Meeting of July 6, 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:

- There is good news this year regarding Net Taxable Value Gross Proceeds which is up approximately 3.2 million on Metal Mine Tax. Butte-Silver Bow will be up over \$50,000 in the Mill Value which has not occurred in the last ten years.
- The Montana Folk Festival was successful and good for the community. Evel Knievel Days and An Ri Ra will begin shortly with anticipated great results.

SECTION I

BID OPENING

SEALED BIDS ARE HEREBY INVITED FOR THE STABILIZATION/DEMOLITION OF THE GREEK CAFÉ. (Communication No. 11-407 being held in the Committee of the Whole.) Proof of Publication was noted.

Jim Jarvis, opened 2 bids from the following:

Sirius Construction (needs to be confirmed if bid is for demolition of stabilization)	Missoula, MT.	\$78,840.00
Hoffman R&M Services Inc. (demolition)	Butte, MT.	\$93,438.00

It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried with a unanimous verbal vote to refer the bids to the Historic Preservation and Community Development Departments for a report back to Council.

SECTION II PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING THE CLOSURE AND VACATION OF A PORTION OF THE EAST-WEST ALLEY LOCATED IN BLOCK 12 OF THE LEGGAT & FOSTER ADDITION, SECTION 18, T3N, R7W. (Petition 11-1 being held in Public Works Committee.) **Proof of Publication was noted.**

John Harrington, Building Official, Butte-Silver Bow Planning Department, stated no adverse reports were received and the alley closure will be permitted with the consent of Council.

Chief Executive Babb opened the Public Hearing at 7:43 p.m. and called for proponents.

On the third and final call, there being none, Chief Executive Babb called for opponents.

On the third and final call, there being none, Chief Executive Babb closed the Public Hearing at 7:44 p.m.

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

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 A, No. 1, Committee of the Whole Meeting, Section 10, Communication No. 11-360.

Commissioner Shaw segregated Section B, No. 13, Communication No. 11-445.

Commissioner Morgan segregated Section B, No. 15, Communication No. 11-447.

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 A-1, Section 10, Communication No. 11-360 and B 1-15 exclusive of No.'s 13 and 15.

Segregation – Communication No.11-360

COMMUNICATION NO. 11-[360](#)

Tim Bozorth, United States Department of the Interior, Bureau of Land Management, Field Manager, MSTI Authorized Officer, requesting time on the July 13, 2011 agenda for a presentation regarding the MSTI Project.

It was moved by Commissioner Palmer, seconded by Commissioner Shaw and passed with a unanimous verbal vote to change the recommendation to reaffirm a letter dated March 4, 2010, have all new Commissioner sign the letter , send on to appropriate parties and place Communication No. 11-360 on file.

Segregation – Communication No.11-445

James Kephart, Julian's Piano Bar, requesting Council's authorization of a street closure August 20, 2011 on Hamilton Street for a Band Fest.

Commissioner Shaw stated all signatures have been obtained.

It was moved by Commissioner Shaw, seconded by Commissioner Palmer and passed with a unanimous verbal vote to Concur with the request of Communication No. 11-445 and place on file.

Segregation – Communication No. 11-447

Kurt Krueger, District Court Judge, requesting Council's authorization to apply for The Montana Board of Crime Control Jail Based Treatment and Aftercare Program Grant.

Commissioner Morgan stated the Grant calls for a 25% match to be covered by existing services and asked for the total amount of the Grant.

Jeff Amerman, Director Butte-Silver Bow Finance and Budget Department, replied he did not know the amount of the Grant but based on the wording, stated the services already being provided would count as an in kind match for which there would be no dollar cost by Butte-Silver Bow.

It was moved by Commissioner Morgan and seconded by Commissioner Foley to hold Communication No. 11-447 in the Committee of the Whole for clarification.

Commissioner Foley stated he had the same question and left a message with Judge Kruegar's office but did not receive a return call.

The motion passed with a unanimous verbal vote.

SECTION IV

COMMUNICATIONS TO BE READ AND ACTED UPON

1. [11-438](#) Bill Melvin, Manager, Butte-Silver Bow Civic Center, requesting time on the July 20, 2011 agenda to discuss the Civic Center 2012 preliminary budget.

Bill Melvin, Civic Center Manager explained the following regarding a hand-out given to Council:

- The North West Rodeo Association Finals will be held in Butte the end of September, and it is necessary to build special equipment for the Civic Center Arena to accommodate this Rodeo.
- The request for arena parts has been approved in the Chief Executive's Budget.
- In order to manufacture the equipment, six weeks lead time is required.
- Council authorization is necessary before the equipment can be manufactured.

Commissioner Shaw asked Mr. Melvin to speak about the potential of sharing these items elsewhere.

Mr. Melvin stated it is true some of the items could be used at other locations but some of the equipment is specific to the Civic Center.

Commissioner Henderson asked Bill Fisher to explain the procedure to for future Rodeo Finals.

Bill Fisher explained the following regarding the event:

- Event has taken place for the last thirty six years in Billings.
- Not just a Rodeo, but rather a weeklong event.
- Bid was placed for 2012 but was also granted for 2011.
- Only four months to prepare for event.
- Rodeo will be very professional and requires an indoor venue.
- Financial impact to the Butte Community will be huge.

Commissioner Morgan asked who will be the manufacture of the equipment.

Bill Melvin replied the equipment would be built by Pinkerton Rodeo and Livestock Systems from Oklahoma.

Commissioner Foley asked Mr. Melvin which bid is being reviewed and if he is asking for Council's permission to move forward and work with Jeff Amerman in the next budget cycle.

Mr. Melvin stated he is asking Council for permission to move forward and order the items in question ASAP.

Commissioner Shaw asked Mr. Fisher if there is a guarantee Butte will host the Rodeo every year.

Mr. Fisher stated he has a two year contract but is hopeful to retain the event in the future.

Commissioner Shaw asked how long it would take to recover the expense of the equipment.

Mr. Fisher replied, in his opinion, the cost of the equipment would be recovered in the first year. Mr. Fisher further stated the Elite Professional Bull Rider Final Event will also be held at the Civic Center in January.

Mr. Melvin stated the Civic Center will receive \$2,500 per day and \$3.00 per ticket sold during the event and added the equipment will be an asset to the community.

Commissioner Morgan asked what type of a motion is being asked for.

Mr. Melvin replied the equipment can be ordered as soon as Council approves the request. The manufacturer will not require a Purchase Order.

Chief Executive Babb explained capital purchases are not usually made until the budget is passed, but if Council authorizes the purchase the funding can be worked out during the budget process.

Commissioner Foley commented this will be positive for the community and he fully supports the event.

It was moved by Commissioner Foley, seconded by Commissioner Schultz and passed with a unanimous verbal vote to approve the request to proceed with the purchase of the equipment for the Civic Center.

County Attorney Joyce requested the motion include the price not exceeding the low bid of \$45,000.

It was moves by Commissioner Foley, seconded by Commissioner Morgan and passed with a unanimous verbal vote to amend the motion to approve the request up to the amount of \$49,999.

SECTION V

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 yeas and 0 nays to suspend the rules for the purpose of passing Council Resolution No. 11-37 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. [11-37](#)

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND CLOSING THE 5TH STREET AT-GRADE PUBLIC CROSSING OF THE RAILROAD'S MONTANA SUBDIVISION TRACK IN MELROSE, MONTANA, COUNTY OF 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. 11-37, 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 VI

**ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

**1. COUNCIL BILL NO. [11-6](#)
ORDINANCE NO. 11-6**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 310 AND CHAPTER 9.24 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “WEAPONS”; AMENDING SECTION 9.24.030, 9.24.050 AND 9.24.060 AND PEPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**2. COUNCIL BILL NO. [11-7](#)
ORDINANCE NO. 11-7**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 277 AND CHAPTER 10.52 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “PARKING”; AMENDING SECTION 10.52.1030 ENTITLED “MONTANA TECH RESIDENTIAL PARKING PROGRAM AND DELETING REFERENCE TO FEES AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**3. COUNCIL BILL NO. [11-8](#)
ORDINANCE NO. 11-8**

AN ORDINANCE AMENDING SECTION 17.060.030 OF BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) WHICH SECTION ADOPTED THE ZONING MAP OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR A CHANGE TO THE OFFICIAL ZONING DISTRICT MAP BY REZONING AN AREA PRESENTLY ZONED R-4 (MOBILE HOME) TO R-2 (TWO FAMILY RESIDENTIAL) LEGALLY DESCRIBED AS 210 ACRES, MORE OR LESS, AND IS SITUATED IN THE S1/2 OF SECTION 12 T3N, R8W, OF THE P.M.M. OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, GENERALLY LOCATED NORTH OF BOARDMAN STREET, EAST OF N. ALABAMA STREET AND N. CLARK STREET, SOUTH OF THE SOUTHERN BOUNDARY OF THE TOWN OF WALKERVILLE, AND WEST OF THE MOUNTAIN CON AND KELLY MINE PROPERTIES, GENERALLY KNOWN AS THE CENTERVILLE NEIGHBORHOOD, PROVIDING FOR THE REPEAL OF ALL PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

4. COUNCIL RESOLUTION NO. [11-35](#)

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF THE EAST-WEST ALLEY BETWEEN NETTIE STREET AND OTTAWA STREET IN BLOCK 45 OF THE NORTHERN PACIFIC ADDITION 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.

5. COUNCIL RESOLUTION NO. [11-36](#)

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS LOTS 1 AND 2 IN BLOCK G OF THE BELLE OF BUTTE ADDITION EXCEPTING AND RESERVING A 10 FOOT EASEMENT ON THE SOUTH BOUNDARY FOR THE BENEFIT OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, 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.

**SECTION VII ORDINANCES
SECOND READING**

**COUNCIL BILL NO. 11-5
ORDINANCE NO. [11-5](#)**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 151 AND CHAPTER 9.12 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "CURFEW FOR MINORS"; AMENDING SECTION 9.12.060 AND DELETING SECTION 9.12.090 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. 11-5, Ordinance No. 11-5 be placed on second 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
FINAL READING**

1. COUNCIL RESOLUTION NO. [11-32](#)

A RESOLUTION DIRECTING THE ELECTION ADMINISTRATOR TO PUT THE QUESTION OF APPROVING A GENERAL OBLIGATION BOND ISSUE NOT TO EXCEED THE AMOUNT OF \$7,500,000.00 FOR THE RENOVATION AND EXPANSION OF THE BUTTE-SILVER BOW AQUATICS AND RECREATION COMPLEX ON THE BALLOT FOR VOTER APPROVAL AT A SPECIAL MAIL BALLOT ELECTION TO BE HELD ON TUESDAY, SEPTEMBER 27, 2011 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Resolution No. 11-32, be placed on final reading and passed having been deemed read at length.*

Commissioner Schultz stated this should be moved to a regular election instead of spending money for a Special Election. Commissioner Schultz further stated this is not a responsible project for the Community at this time.

The motion passed with a roll call vote of 9 yea and 2 nay.

2. **COUNCIL RESOLUTION NO. [11-33](#)**

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF CERTAIN PARCELS OF REAL PROPERTY 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. 11-33 be placed on second reading and 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. [11-34](#)**

RESOLUTION RELATING TO FINANCING OF CERTAIN PROPOSED PROJECTS; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Resolution No. 11-34 be placed on second reading and passed having been deemed read at length. The motion passed with a roll call vote of 11 yea and 0 nay.*

Commissioner Shaw stated there will be no Community Enrichment or Zoning Board Meetings in July.

Commissioner Walker announced the Harrison Ave. Project is on schedule.

Commissioner Schultz asked why the project is not being worked on a 24 hour basis.

Chief Executive Babb stated it is up to the Contractor and as long as the project is on schedule nothing can be done to force the Contractor to work longer hours.

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 8:32 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER