

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

**For March 2, 2011**

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

1 presiding, 10 present, 1 absent, Commissioner Morgan was excused.

## **PRAYER**

Commissioner Hall led the Commissioners in prayer.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 16, 2011.**

**It was moved by Commissioner Shaw and seconded by Commissioner Frasz to approve the minutes of the Regular Meeting of February 16, 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**

R. Edward Banderob, 2601 Grand Ave reminded Council of a stable building sitting on parkland which is in need of a roof. Mr. Banderob stated the cost of replacing this roof is approximately \$200,000.

## **CHIEF EXECUTIVE'S REPORT**

Acting Chief Executive Dave Palmer announced the next public meeting for the aquatics facility will be held March 8, 2011 at 7:00 p.m. at the War Bonnet Inn.

## **SECTION I PUBLIC HEARING**

**TO HEAR PUBLIC COMMENT REGARDING ZONE CHANGE APPLICATION NO. 166. (Communication No. 11-82 being held in the Committee of the Whole). Proof of Publication.**

Steve Hess, Assistant Planning Director stated the following regarding Kennel regulations within the Zoning Ordinance of Butte-Silver Bow:

- Chapter's 17.04, 17.08, 17.18, 17.28, and .30 will be amended.

- The amendments are necessary in order to be compatible with the changes to Chapter 6.08 of the Animal Ordinance. The new Animal Ordinance provides for three categories of kennels and the current ordinance only contains one category.
- The existing kennel language will be amended to provide three categories:
  1. Class 1 Kennel – one in which animals are boarded and kept on a temporary basis.
  2. Class 2 Kennel – a breeding facility in which more than one litter of puppies or cats is whelped annually.
  3. Class 3 Kennel – one in which an individual or family owns four or more adult dogs or cats at any one time.
- Animal owners with four or more dogs will be required to have two acres and new set-back requirements will be enforced.
- Current owners of four or more dogs with only one acre will be grandfathered.

Acting Chief Executive Palmer opened the Public Hearing at 7:35 p.m. and called for proponents.

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

On the third and final call, there being none, Acting Chief Executive Palmer closed the Public Hearing at 7:36 p.m.

Commissioner Foley requested the order of the agenda be changed in order to confirm Firefighter Patrick Doherty before continuing.

### **COMMUNICATION NO. 11-92**

Paul Babb, Chief Executive, requesting Council's concurrence in the appointment of Mr. Patrick Doherty as a Probationary Entry Level Firefighter.

John Lasky, Assistant Chief Butte-Silver Bow Fire Department introduced Patrick Doherty as the new Probationary Entry Level Firefighter.

Commissioner Hall asked Mr. Doherty to give a short history of his life.

Patrick Doherty stated he has lived in Butte his entire life, is twenty four years of age and is excited to perform the job as firefighter.

Commissioner Schultz asked Mr. Doherty to talk about his family.

Mr. Doherty stated his parents are Pat and Rachel Doherty and he has three brothers and one sister.

**It was moved by Commissioner Shaw, seconded by Commissioner Frasz and passed with a unanimous verbal vote to concur with the request to appoint Patrick Doherty as a Probationary Entry Level Firefighter and place Communication No. 11-92 on file.**

## SECTION II

## PUBLIC PRESENTATION COMMUNICATION NO. 11-32

Robert Macioroski, Director, Butte-Silver Bow Land Sales Office, requesting Council's authorization to schedule a Public Presentation March 2, 2011 regarding redevelopment proposals for the Greek Café, 88 E. Part Street, Butte, Montana.

Robert Macioroski, Director Land Records Office explained the Greek Café located at 88 E Park has been out on a Developer's Packet and one application has been received from Nick Kujawa LLC. Mr. Macioroski introduced Mr. Kujawa and stated he would give a brief presentation.

Nick Kujawa stated the following regarding the Greek Café:

- The vision for the Greek Café is to return it to what it once was; six store fronts which will be available for retail use on the first floor, and office space or residential space on the second floor.
- The Greek Café Building is zoned "C-3", which includes retail and office space as permitted uses.
- The building is extremely deteriorated and has no roof.
- It will not be possible to obtain course-of-construction insurance until the building has been certified as structurally stable by a structural engineering firm
- A temporary stabilization by Butte-Silver Bow is being proposed as a condition to taking title of the Greek Café Building with certification by Beaudette Consulting Engineers.
- Butte-Silver Bow already has liability insurance coverage for the building.
- The approximate cost to stabilize the building is \$61,000 and could be deducted from the available public funds of \$169,750.

Commissioner Andersen asked Mr. Kujawa if he has been in contact with Beaudette Consulting regarding this plan.

Mr. Kujawa replied he has spoken extensively with Beaudette Consulting concerning the stabilization of the Greek Café.

Commissioner Schultz asked Mr. Kujawa if Butte-Silver Bow has the liability for the Greek Café until it is stabilized and the liability for the workers as well.

Mr. Kujawa replied this is correct, the Greek Café is the liability of Butte-Silver Bow. Mr. Kujawa further stated once the building is certified as being stable his company will move forward with the project.

Commissioner Foley asked County Attorney Joyce for legal advice regarding this proposal.

County Attorney Joyce stated Butte-Silver Bow does have the liability for the Greek Cafe as the owner of the building. The funding for the internal stabilization Mr. Kujawa refers to comes from grant funds already awarded for the building. County Attorney Joyce further stated if this assists the County in its efforts to maintain its Historic Certification, it will be a positive step, however the final decision lies with Council.

Commissioner Foley asked Dan Dennehy, Public Works Director, if his staff would be comfortable with getting involved with the process.

Dan Dennehy replied he would be comfortable with using grant funds in order to have a structural engineer stamp the building as being stable, but would also be apprehensive as whether or not the building can be stabilized.

Nick Kujawa commented nobody knows for sure what will happen when stabilization of the building begins, but demolishing the building is also extremely complicated. Mr. Kujawa further commented Butte-Silver Bow maintains liability for the building whether it is stabilized or demolished and most of the same steps will need to be taken if the building is demolished.

Commissioner Palmer clarified the process for the project by explaining this is a presentation for the proposal and no decision will be made tonight. A Public Hearing will be held next week regarding the proposal which will then be referred to the selection committee for a report back to Council with their recommendation. Council will vote after the selection committee's recommendation.

Commissioner Granger asked Mr. Kujawa when the \$5,000 to purchase the building would be paid.

Mr. Kujawa replied the \$5,000 will be paid when the building is certified as temporarily structural sound.

Commissioner Hall commended Mr. Kujawa for stepping forward in an effort to save the building.

### **SECTION III BID OPENING**

SEALED BIDS ARE HEREBY INVITED FOR THE PURPOSE OF SUPPLYING ASPHALT. (Communication No. 11-70 being held in the Committee of the Whole). **Proof of Publication was noted.**

Dan Dennehy, Public Works Director, opened one bid from the following:

Montana Refining Company, Black Eagle Montana	\$543,000
-----------------------------------------------	-----------

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

### **SECTION IV BID OPENING**

SEALED BIDS ARE HEREBY INVITED FOR THE PURPOSE OF SUPPLYING TITLE AND LIEN SEARCH FOR 2011 COUNTY TAX DEED PROCESS. **Proof of Publication was noted.**

Patsy Coates, Property Specialist, opened one bid from the following:

Summit Valley Title Co., Butte, Montana	\$ 75.00 per parcel
-----------------------------------------	---------------------

**It was moved by Commissioner Shaw, seconded by Commissioner Frasz and carried with a unanimous verbal vote to refer back to Patsy Coates, BSB Property Specialist and report back to Council later in this meeting with a recommendation and place on file.**

## SECTION V

## 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 Acting Chief Executive Palmer called for any friendly amendments or segregations.**

Commissioner Frasz segregated Section V, Item A-1, Committee of the Whole Meeting Report, Communication No. 11-62.

**It was then moved by Commissioner Shaw, seconded by Commissioner Frasz and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4 with the exception of Committee of the Whole Meeting Report, Communication No. 11-62 and Section B 1 through 17.**

### **Segregation – Communication No. 11-62**

Mollie Kirk, Butte Celebrations, requesting Council's authorization of the annual St. Patrick's Day Festivities.

Commissioner Frasz explained Communication No. 11-62 was held pending signatures which have since been obtained. Butte Celebrations has been reinstated and is in good standing with the Secretary of the State.

**It was moved by Commissioner Frasz, seconded by Commissioner Shaw and passed with a unanimous verbal vote to approve Communication No. 11-62 and place on file.**

## SECTION VI

## COMMUNICATIONS TO BE READ AND ACTED UPON

[11-92](#) Paul Babb, Chief Executive, requesting Council's concurrence in the appointment of Mr. Patrick Doherty as a Probationary Entry Level Firefighter.

[11-103](#) Patsy Coates, Property Specialist, notifying Council of a bid opening March 2, 2011 to receive sealed bids for Title and Lien Search for 2011 County Tax Deed Process and requesting Council authorization to award the bid to the lowest bidder.

**It was moved by Commissioner Shaw, seconded by Commissioner Frasz and passed with a unanimous verbal vote to approve Patsy Coates request of the Council to authorize awarding the bid for Title and Lien Search for 2011 County Tax Deed Process to the lowest bidder, Summit Valley Title Co., and place Communication No. 11-103 on file.**

**SECTION VII**

**SUSPENSION OF THE RULES  
FOR FINAL PASSAGE**

**It was moved by Commissioner Shaw, seconded by Commissioner Frasz and carried by a roll call vote of 10 yeas and 0 nays to suspend the rules for the purpose of passing Council Resolution No's 11-8, 11-9, and 11-10 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.**

1. **COUNCIL RESOLUTION NO. [11-8](#)**

A RESOLUTION CREATING A TOURISM BUSINESS IMPROVEMENT DISTRICT, TO BE KNOWN AS SPECIAL TOURISM BUSINESS IMPROVEMENT DISTRICT NO. 1, FOR THE PURPOSE OF PROMOTING TOURISM, CONVENTIONS, TRADE SHOWS AND TRAVEL TO THE CITY-COUNTY OF BUTTE-SILVER BOW, MONTANA AND PROVIDING FOR THE EFFECTIVE DATE HEREIN. **It was moved by Commissioner Shaw and seconded by Commissioner Frasz that Council Resolution No. 11-8 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yeas, 0 nays.**

2. **COUNCIL RESOLUTION NO. [11-9](#)**

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 PUBLIC LIBRARY FROM INSURANCE PROCEEDS FOR THE WATER DAMAGE TO THE LIBRARY TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Shaw and seconded by Commissioner Frasz that Council Resolution No. 11-9 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yeas, 0 nays.**

3. **COUNCIL RESOLUTION NO. [11-10](#)**

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 COMMUNITY ENRICHMENT DEPARTMENT FROM THE BUTTE-SILVER BOW GENERAL FUND CASH RESERVES FOR THE PURPOSE OF THE DEMOLITION OF THE NATIONAL HOTEL AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Shaw and seconded by Commissioner Frasz that Council Resolution No. 11-10 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 10 yeas, 0 nays.**

Acting Chief Executive announced Council will take March 16, 2011 off as there are five Wednesday's in March.

**ADJOURN**

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

The meeting adjourned at 8:25 p.m.

---

**CHIEF EXECUTIVE**

**ATTEST:**

---

**CLERK AND RECORDER**