

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

**For May 4, 2011**

**The Regular Meeting of the Council of Commissioners was called to order Wednesday, May 4, 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 Frasz was excused.

## **PRAYER**

Commissioner Hall led the Commissioners in prayer.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF APRIL 20, 2011.**

**It was moved by Commissioner Palmer and seconded by Commissioner Shaw to approve the minutes of the Regular Meeting of April 20, 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 Resolution No. 11-19 to the agenda.

It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried by a roll call vote of 11 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 Council Resolution No. 11-19 to be added to the Agenda of the May 4, 2011 Meeting of the Council.

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

Dan Goles, 743 S. Wyoming, asked why Iron Street was closed without notifying him.

Chief Executive Babb explained the issue was addressed at the April 27, 2011 Council Meeting. Chief Executive Babb further explained Robert Macioroski, Director of Butte-Silver Bow Land Sales Department, explained at the meeting the land was never a dedicated street, but was a railroad right-of-way lot which came into control of the county and was sold under the adjacent landowner provision. The only parties notified were Steele's and Whalen Tire.

Dan Goles stated the land has been paved by the City of Butte twice and asked how the City could pave private property.

Chief Executive Babb told Mr. Goles he would need to write a letter to Council in order to be put on the Agenda for any further discussion.

Barbara Goles 743 S Wyoming stated it was her understanding the fence at the lot in question at Utah and Iron, would be taken down in order to allow egress for emergency vehicles. Ms. Goles asked Council to follow through to make certain the fence is taken down.

## **CHIEF EXECUTIVE'S REPORT**

Chief Executive Babb reported the following:

- Work is being conducted with the Building Trades Council regarding the issue of the contract for the Meadowlands Apartments which was awarded to an out-of state firm. Butte-Silver Bow has requested the Building Trades Council submit an Ordinance called Best Value Contracting, which can be presented to Butte-Silver Bow's County Attorney for her review before submission to Council. This ordinance would place a value on being a local contractor.
- The Fourth of July Parade Route, which will be brought before Council for approval, will begin on Dewey Blvd near Stodden Park, East to Harrison Ave. and South to Elizabeth Warren.
- Budget letters have been sent out to all departments with zero based budgeting being utilized.
- The Aquatics Ad Hoc Committee has been disbanded.
- Dan Harback, Union Pacific Representative, awarded \$5,000 to the Montana Folk Festival, \$1,000 to the YMCA and \$1,000 to the United Way.
- The Centennial Celebration is scheduled for July 3, 2012.

## **SECTION I BID OPENING**

**SEALED BIDS ARE HEREBY INVITED FOR THE 2011 WATER MAIN REPLACEMENT PROGRAM. Proof of Publication was noted.**

Rick Larson opened one bid from the following:

H & H Contracting Inc.,	Butte, Mt.	\$2,466,682
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**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried with a unanimous verbal vote to refer the bids to the Public Works Department and report back to Council.**

## **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 Palmer made a Friendly Amendment to No. 22, Communication No. 11-252 to change the recommendation to send the Communication to the Committee of the Whole and hold in abeyance.

Commissioner Palmer segregated Section B, No. 7, Communication No. 11-237.

Commissioner Shaw segregated Section B, No. 8, Communication No. 11-238.

**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 B 1-30 exclusive of No. 7, 11-237 and No. 8, 11-238.**

**Segregation – Communication No. 11-237**

Sheriff John Walsh, Butte-Silver Bow Law Enforcement Department, requesting Council’s authorization for the Chief Executive to sign an agreement with Triple S Building Center.

Commissioner Palmer explained Triple S is sponsoring a boxing match during Evel Knievel Days and is hiring Butte-Silver Bow Law Enforcement for security during the four hour period the match will take place. Commissioner Palmer further explained there was some confusion with this communication because the standard contract used when Law Enforcement Officers are hired for an outside event was used and the contract will be amended to reflect this.

**It was moved by Commissioner Palmer, seconded by Commissioner Shaw and carried with a unanimous verbal vote to concur with the request of Communication No. 11-237 and place on file.**

**Segregation – Communication No. 11-238**

Duane Kuchtyn, Contract Engineer, NorthWestern Energy, requesting Council’s authorization for traffic control on Montana Street between Broadway Street and Park Street from May 9, 2011 through May 20, 2011.

Commissioner Shaw stated she wanted to clarify how business in the area would be affected. Commissioner Shaw further stated she contacted Mr. Kuchtyn and requested he notify the business of the route changes. Mr. Kuchtyn agreed to notify the affected business.

**It was moved by Commissioner Shaw, seconded by Commissioner Palmer and carried with a unanimous verbal vote to concur with the request of Communication No. 11-238 and place on file.**

**SECTION III TO BE READ AND ACTED UPON**

[11-260](#) Dave Palmer, Chairman, Butte-Silver Bow Council of Commissioners, requesting the Council of Commissioners go on record supporting the Butte Post Office.

Commissioner Palmer asked Council’s permission to go on record with a Resolution to the Congressional Delegation and a letter to Mr. DiPeri, Acting Director of Montana and the Dakotas United States Postal Service. Commissioner Palmer stated it would be wise for Council to go on

record with a Resolution of Support for the Butte Post Office to not only keep it open, but if a consolidation occurs, it should take place in Butte instead of Great Falls.

Commissioner Shaw stated the deadline for comments or requests is May 10, 2011.

Commissioner Schultz stated Council should be united and unanimously support this request, and commended Commissioner Palmer for bringing it before Council.

Chief Executive Babb stated a letter has already been sent from his office along with a Resolution passed by BLDC. Chief Executive Babb further stated he will provide a copy of both to Council for their review.

**It was moved by Commissioner Palmer, seconded by Commissioner Schultz and passed with a unanimous verbal vote to concur with the request of Communication No. 11-260 and send a letter of support.**

### **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 10 yea and 1 nay to suspend the rules for the purpose of passing Council Resolution No.11-19 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. 11-19**

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA, FOR A MONTANA NEIGHBORHOOD STABILIZATION PROGRAM GRANT UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Resolution No. 11-19, 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 IV**

### **ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY**

#### **1. COUNCIL RESOLUTION NO. [11-17](#)**

A RESOLUTION APPROVING GROWTH POLICY AMENDMENT NO. 28 TO THE 1987 BUTTE-SILVER BOW MASTER PLAN, INCORPORATING, BY REFERENCE, THE TEXT OF THE AMENDMENTS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2.

**COUNCIL RESOLUTION NO. [11-18](#)**

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 DEVELOPMENT DEPARTMENT EXPENDED IN THE COMMUNITY DEVELOPMENT FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION V**

**ORDINANCES AND RESOLUTIONS  
FINAL READING**

1.

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

AN ORDINANCE AMENDING CHAPTER 17 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “ZONING”; AMENDING SECTION 17.04.235; 17.08.020, 17.18.020, 17.28.020 AND 17.30.020, B-SB MC AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Resolution No. 11-3, 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.*

2.

**COUNCIL BILL NO. [11-4](#)  
ORDINANCE NO. 11-4**

AN ORDINANCE AMENDING TITLE 6 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “ANIMALS”; AMENDING SECTION 6.08.030 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Resolution No. 11-4, 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.*

3.

**COUNCIL RESOLUTION NO. 11-16**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE AMENDED PLAT – BUTTE TOWNSITE LOTS 1-4 AND NORTH PORTION OF 5 AND LOTS 14-22, BLOCK 67, BUTTE TOWNSITE OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. *It was moved by Commissioner Palmer and seconded by Commissioner Shaw that Council Resolution No. 11-16, 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.*

Commissioner Schultz commented today is the Fiftieth Anniversary of the Freedom Riders and the obtaining of full rights for people of all races.

Commissioner Hall announced the time for the Parks and Recreation Meeting has changed from 4:15 p.m. to 5:00 p.m.

Commissioner Palmer announced the Friends of Stodden will meet Thursday at 7:00 p.m. at Perkins to discuss raising funds to conduct the marketing for passage of the bond issue for the Aquatics Facility.

**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 8:05 p.m.

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**CHIEF EXECUTIVE**

**ATTEST:**

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**CLERK AND RECORDER**