

B. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any friendly amendments or segregations.

Commissioner Henderson segregated Section I, B, Numbers 6, 7, and 8, Communications 11-672, 11-673 and 11-674.

Commissioner Hall segregated Section I, A, Number 3, Judiciary Committee Meeting Report, Section IV, Communication No. 11-652.

Commissioner Foley segregated Section I, B, Number 22, Communication No. 11-689.

Commissioner Shaw made a Friendly Amendment to Section I, Number 32, Communication No. 11-699 to cross-reference with Communication No. 11-645, which is being held in the Public Works Committee.

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 with the exception of 11-652, and Section B, Items 1 through 38, with the exception of 11-672, 11-673, 11-674 and 11-689.

Segregation – Communication No. 11-652

Mary Kay Craig, 518 W. Granite Street, Butte, Montana, requesting Council adopt a resolution in solidarity with the Occupy Movement.

Commissioner Hall stated Communication No. 11-652 is being held in the Judiciary Committee with a tie vote and asked what will happen next with the communication.

Chief Executive Babb replied the Communication will die in the Committee unless it is segregated at tonight's meeting.

It was moved by Commissioner Hall and seconded by Commissioner Andersen to approve Communication No. 11-652.

Commissioner Schultz clarified the resolution being considered is not the same resolution being circulated amongst the Democratic Central Committee and explained this resolution has been brought forward by local citizens who are concerned about Butte citizens.

Commissioner Schultz asked Mary Kay Craig to comment regarding the resolution.

Mary Kay Craig, 518 W. Granite, stated Occupy Butte is a non-partisan organization and was not aware of another resolution by a different group. Ms. Craig further stated Occupy Butte has no connection with any other party and explained the Occupy Butte group is "Butte people caring about Butte people."

Commissioner Shaw stated she is in support of the resolution and asked Ms. Craig to state the source of the statistics in her resolution.

Ms. Craig replied the statistics came from a document from the Human Resource Council supplied by Margie Seccomb.

Commissioner Andersen commented this issue directly affects many individuals in our community, especially senior citizens, low income individuals and children. Commissioner Andersen thanked Ms. Craig and the Occupy Butte group for their time and efforts regarding the resolution.

Commissioner Foley stated Council has been down this road before and needs to be realistic about the compromises which need to be made regarding Social Security and Medicaid programs.

Commissioner Ralph expressed her views by stating she opposes cuts to Social Security, Medicare and Medicaid but explained it is the job of elected officials to deal with these issues and elected officials have information others are not privy to. Commissioner Ralph commented it is inappropriate for Council, as an elected group, to support something without having all the facts.

A substitute motion was made by Commissioner Ralph and seconded by Commissioner Granger to deny the request of Communication 11-652 and place the communication on file.

Commissioner Schultz read the proposed resolution and commented “no one should take offense at this.”

A motion to end all motions was made by Commissioner Schultz and seconded by Commissioner Hall to pass the resolution, (as altered) with no reference to Occupy Butte, and forward to the County Attorney for proper formatting. The motion passed with a roll call vote of 7 yea and 4 nay.

Segregation – Communication Nos. 11-672, 673 and 674

Pat Holland, Butte-Silver Bow Government Buildings Manager, requesting Council’s authorization for the Chief Executive to sign a change order for the Fire Station #1 roof replacement.

Pat Holland, Butte-Silver Bow Government Buildings Manager, requesting Council’s authorization for the Chief Executive to sign a change order for the Health Department boiler renovation.

Pat Holland, Butte-Silver Bow Government Buildings Manager, requesting Council’s authorization for the Chief Executive to sign a change order for the Civic Center boiler renovation.

Commissioner Henderson asked Pat Holland to explain the Change Orders for Communication Nos. 11-672, 11-673 and 11-674.

Pat Holland explained the following:

- During the removal of the existing roof of the Fire Station, it was discovered the original plywood decking had rotted.
- The new boilers at the Civic Center and the Health Department require new controls.
- An additional stack to accommodate the new boilers was necessary at the Health Department.

Commissioner Frasz asked Mr. Holland what the Change Order amounts of Communication Nos. 11-672 and 11-673 were.

Pat Holland replied the overall budget for the Fire Station Roof and the Library Roof was \$400,000. A total of \$139,000 was left, and the Change Order for the Fire Station is \$20,635, leaving \$118,824. The Library Roof is complete and will have no Change Orders. The Fire Station Roof is approximately 99% complete and should have no further Change Orders.

Mr. Holland explained the overall budget for the Civic Center Project was \$450,000, with \$125,630 left after Change Orders. Mr. Holland further explained the Civic Center Project is not complete and may have additional Change Orders.

Mr. Holland stated \$105,880 is left in the budget for the Health Department, with a Change Order of \$19,000 for controls between the old system and the new boiler, and explained there may be additional Change Orders.

Bill Melvin, 911 Montrose, stated 70% of the budget for the Health Department and the Civic Center Project was funded from the Recovery Reinvestment Program.

Commissioner Hall asked Mr. Holland if the Change Orders for any of the projects brought the costs higher than any of the other bids received.

Mr. Holland replied no.

Commissioner Schultz asked if the changes to the projects should have been anticipated.

Bill Melvin replied contingencies were built into the projects for the Civic Center and the Health Department to accommodate these Change Orders.

It was moved by Commissioner Henderson, seconded by Commissioner Schultz and passed with a unanimous verbal vote to concur with the request of Communication No. 11-672 and place on file.

It was moved by Commissioner Shaw, seconded by Commissioner Henderson and passed with a unanimous verbal vote to concur with the request of Communication No. 11-673 and place on file.

It was moved by Commissioner Shaw, seconded by Commissioner Henderson and passed with a unanimous verbal vote to concur with the request of Communication No. 11-674 and place on file.

Segregation – Communication No. 11-689

Mike Thatcher, Chief Executive Officer, Community Counseling and Correctional Services, Inc. (CCCS) requesting Council's authorization for the Chief Executive to sign a "Purchase of Service Agreement" with CCCS.

Commissioner Foley explained he wished to abstain from voting on Communication No. 11-689 because of a conflict of interest.

It was moved by Commissioner Shaw, seconded by Commissioner Henderson and passed with a unanimous verbal vote to concur with the request of Communication No. 11-689 and place on file.

SECTION II

COMMUNICATIONS TO BE READ AND ACTED UPON

11-706

Lindsey Moe, Director, Butte-Silver Bow Human Resources Department, requesting Council's authorization for the Chief Executive to sign an adoption agreement with the Public Employees' Retirement Board to offer a Deferred Compensation Plan for Butte-Silver Bow Employees.

Lindsey Moe, Butte-Silver Bow Human Resources Director explained the reasons for investigating a Deferred Compensation Plan at this time are:

- There has been no structure to the plan being used by Butte-Silver Bow in the past.
- Any provider who chose to solicit Butte-Silver Bow employees has been allowed to do so.
- There has been no Request for Proposals and there is no board to oversee these plans.
- There needs to be some type of structure to the benefits offered to Butte-Silver Bow Employees.

Commissioner Henderson asked Ms. Moe if Deferred Compensation is handled by the Human Resource Office or if it is handled by the Finance and Budget Office.

Ms. Moe replied the program currently is only a payroll deduction and has no oversight.

Commissioner Morgan stated a Butte-Silver Bow employee sent an email to Council regarding his current Deferred Compensation Plan, asking if he will need to withdraw from his current Plan. Commissioner Morgan then asked if this is correct.

Jennifer Weigand, 1546 Mineral Road, Helena, MT., State of Montana, Public Employees Retirement Service (PERS), explained PERS, by law, cannot contract with an employer if a 457 Plan with another provider is already being offered to employees.

Chief Executive Babb asked what alternatives employees who are currently participating in another Deferred Compensation Plan would have if Butte-Silver Bow adopted the State PERS.

Ms. Weagin, replied employees will have the ability to leave their funds in their current plan or roll their funds into the 457 PERS with the State if Butte-Silver Bow opens an account with the State.

Commissioner Foley stated Butte-Silver Bow does not currently have an official Deferred Compensation Plan. However, some employees participate in a plan through Butte-Silver Bow Payroll Deduction. Commissioner Foley further stated employees should have the right to continue with their current plan if they so choose.

Chief Executive Babb asked for clarification regarding the current Deferred Compensation Plans which are being payroll deducted.

Lindsey Moe explained there are currently two providers offering Deferred Compensation for Butte-Silver Bow employees. A contract with one of the providers was approved by Council in the 1990s. However, a contract for the second provider could not be located.

County Attorney Joyce stated it was her understanding there were two prior contracts offered through Butte-Silver Bow which allowed employees to participate in a Deferred Compensation Program and that the term for these contracts expires at the end of this year.

Lindsey Moe replied one of the contracts has no term limits and the other contract could not be located.

County Attorney Joyce stated it will be necessary to determine the terms and conditions of the current contracts before contracting with PERS. Ms. Joyce further stated the rights of the employees currently participating in these programs should be determined as well.

Chief Executive Babb commented the PERS Plan should be compared to the two existing plans and asked Ms. Moe if that had been done.

Ms. Moe replied the current plans have not been evaluated but explained the benefit of utilizing the State Plan versus current plans is the State continually goes out for RFPs and is continually seeking to provide the best carrier. Ms. Moe further explained the State also provides a larger plan than Butte-Silver Bow could offer on its own and, therefore, is in a better position to negotiate rates and agreements.

Chief Executive Babb stated the benefits of all employees should be taken into consideration and explained more information regarding these plans is necessary before adopting a new Deferred Compensation Plan.

Commissioner Schultz asked what prompted the agreement with PERS.

Lindsey Moe replied the current Social Security issue prompted the Human Resources and Finance and Budget Departments to review all the benefits provided to Butte-Silver Bow employees. Ms. Moe explained Butte-Silver Bow should not have the fiduciary responsibility of the Deferred Compensation Plans currently being offered because the plans are not overseen by Butte-Silver Bow.

Commissioner Schultz asked if employees who contribute to the current Deferred Compensation Plans would be allowed to continue deductions if the agreement with PERS is adopted.

Ms. Weagin replied it will not be possible to continue deductions for employees in the current plans.

Commissioner Ralph stated employees should be notified the changes to current Deferred Compensation Plans have not been finalized and they will have an opportunity to comment. Ms. Ralph further stated employees have the responsibility and the right to oversee their own Compensation Plan.

It was moved by Commissioner Ralph and seconded by Commissioner Henderson to refer Communication No. 11-706 to the Personnel Committee.

Commissioner Hall asked if a contract existed for the second plan.

Lindsey Moe replied a contract could not be located for the second plan.

Commissioner Hall asked why PERS would have a problem with the second plan if there is no contract.

Ms. Weigand replied 457 (b) Plans are governmental plans sponsored by employers.

Commissioner Shaw asked if there is a time frame and if a decision needs to be made by the first of the year.

Ms. Moe replied no.

Chief Executive Babb asked if there is an open enrollment.

Ms. Moe replied yes, this is correct.

Commissioner Morgan asked if the current contract for Deferred Compensation expires December 31, 2011.

Ms. Moe replied there are no terms on the contract. It simply states “you may discontinue at any time.”

The motion passed with a unanimous verbal vote.

Jennifer Weigand gave a brief overview of the 457 B Plan offered by the State of Montana with the following information:

- Employers who contract with the State of Montana to offer a 457 (b) Plan hand over the fiduciary responsibility to the Public Employee Retirement System Board.
- Free education for plan members is offered by the State.
- Employees can contribute to the plan for as little as \$10 per month.
- Employees have the ability to choose their own investments within the plan.
- Contributions to the plan are tax deferred.
- Funds from a previous plan can be rolled into the PERS Plan and remain available for distribution.
- Contributions to the plan are not available unless a hardship withdrawal is approved or if there is a balance of less than \$5,000, with no contributions having been made in two years.
- Fees are paid by employees.

SECTION III

**ORDINANCES AND RESOLUTIONS
FINAL READING**

**1. 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.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 11-7, Ordinance No. 11-7 be placed on second reading and be passed, having been deemed read at length. The motion passed with a roll call vote of 11 yea and 0 nay.

2. COUNCIL RESOLUTION NO. 11-73

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE MINOR SUBDIVISION OF TRACT 4B1 OF COS 930B-RB – EXPEDITED REVIEW 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 Shaw and second by Commissioner Morgan that Council Resolution No. 11-73 be placed on final reading and be 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. 11-74

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE AMENDED PLAT OF LOT E OF PLAT 148A OF THE BUTTE INDUSTRIAL PARK ADDITION 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 Shaw and second by Commissioner Morgan that Council Resolution No. 11-74 be placed on final reading and be passed, having been deemed read at length. The motion passed with a roll call vote of 11 yea and 0 nay.

Commissioner Frasz stated the East Butte RRA Meeting will be held November 17, 2011.

Commissioner Shaw announced the Copper King Mansion will be hosting an Open House Friday, November 18, 2100 from 3:30 p.m. to 5:30 p.m.

Commissioner Foley commented many employees are concerned and frustrated with the Social Security issue and stated the need to resolve the issue as quickly as possible.

Commissioner Schultz also stated the need for a quick resolution to the Social Security issue.

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 8:59 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER