

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

FOR MAY 20, 2009

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **May 20, 2009**, 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 Morgan was excused.

PRAYER

Commissioner Lee led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE MAY 5, 2009 SPECIAL MEETING AND THE REGULAR MEETING OF MAY 6, 2009

It was moved by Commissioner Lee, seconded by Commissioner Moodry to approve the Minutes of the May 5, Special Meeting and the Regular Meeting of May 6, 2009. The motion carried with a unanimous verbal vote.

ITEMS NOT ADDRESSED ON THE AGENDA

It was moved by Commissioner Lee, seconded by Commissioner Moodry and carried with a unanimous verbal vote that 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. 09-366 and Council Resolution No. 09-366 and also Resolution No. 09-2 to be added to the Agenda of May 20, 2009 Meeting of the Council .

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reported that a training session will be held on interest based bargaining, hopefully on June 8th, by Ed Handel with the State of Montana conducting the training .

He recognized that Wally Choquette and Rick Gelling are recently retired, and suggested commissioners give them a call and thank them for a job well done. He also recognized Helen Walsh , Council Secretary, who is retiring, and thanked her for her service. He recognized Helen's husband, Joe Walsh, in the audience. There will be a retirement party for Helen on the 29th.

SECTION I

PRESENTATION COMMUNICATION NO. 09-323

Andy Halbac, requesting time on the 5/20/09 agenda to make a presentation regarding bus passes for Butte-Silver Bow Transit.

Andy Halbac, Rosalie Manor Apartments, expressed his concern because he has an unlimited bus pass but still gets charged thirty cents on the turnaround. Chief Executive Babb called Gary Keeler, Transit Director, to the microphone to explain their policy. He explained that you can only ride the one bus for one hour. You can transfer to another bus with no other charge, but you cannot stay on one bus for more than one hour.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to place Communication No. 09-323 on file.

At this point Chief Executive Babb asked to move to Section VI, Communications To Be Read and Acted Upon, Communication No. 09-351, Paul Babb, Chief Executive, requesting concurrence in appointment of Chad Silk as a probationary entry level firefighter.

He then recognized Chad Silk and his family in the audience. He has gone through the probationary period. Director Fire Services Miller said that he has completed that very satisfactorily.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the Chief Executive's recommendation and confirm Mr. Chad Silk as a probationary entry level firefighter. Commissioner Palmer moved to place Communication No. 09-351 on file. The motion was seconded by Commissioner Lee and carried with a unanimous verbal vote.

Now back to Section II

SECTION II

PRESENTATION COMMUNICATION NO. 09-358

Karen Byrnes, Director, Community Development Department, requesting time on the 5/20/09 agenda for a presentation regarding the CDBG Program's Neighborhood Stabilization Program and Emma Park Neighborhood Redevelopment Project.

Karen Byrnes, Director, Community Development Department, said there is some new funding that is coming from the State of Montana, called Neighborhood Stabilization Program. They are coming from the State Department of Commerce. She gave an overview of what NSP funds are, how they got to us and how we can apply for them. She introduced Margie Seccomb and Elissa Mitchell from the Human Resource Council because we are looking at partnering in a project with them for a neighborhood revitalization effort in the Emma Park neighborhood.

Elisa Mitchell and Margie Seccomb both explained their part in this program.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to place Communication No. 09-358 on file.

SECTION III

INVITATION FOR BIDS

SEALED BIDS ARE HEREBY INVITED FOR THE PURPOSE OF PURCHASING A COMPRESSED AIR FOAM SYSTEM. (Communication No. 09-282 being held in Committee of the Whole) **Proof of publication was note and placed on file.**

Jeff Miller, Director of Fire Services, opened the one bid from Montana Fireworks, 5039 Love Lane, Bozeman, MT in the amount of \$52,128.00.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer this bid back to Mr. Miller for a report back to this council.

SECTION IV

INVITATION FOR BIDS

SEALED BIDS ARE HEREBY INVITED FOR SUPPLYING BUTTE-SILVER

**BOW WITH WATER TREATMENT CHEMICALS. (Communication No. 09-330)
Proof of publication was noted and placed on file.**

Rick Larson, Public Works Department, opened two bids.

1. Aquapure, Inc., 716 N. Helena Avenue, Sioux Falls, South Dakota in the amount of \$95,518.00.
2. Pristene Water Solutions, 1570 S. Lakeside Drive, Waukegan, IL in the amount of \$136,400.00.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer the bids to Mr. Larson to report back to this council.

At 8:35 Chief Executive Babb called for a 5 minutes recess. The Council was called back into session at 8:45 PM. A roll call vote was taken with 11 present and 1 absent.

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
 5. PERSONNEL COMMITTEE MEETING REPORT

B.

PETITIONS

1. 09-3 John Harrington, Building Official requesting on behalf of Jacqueline Todd to close and vacate a portion of California Street.
Recommendation: set public hearing.

C.

COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregations. Commissioner Palmer made a “friendly amendment” under B-1. The recommendation should be refer to Public Works Committee. Under C, No. 32. Communication No. 09-359, the recommendation should read “refer to Committee of the Whole for a presentation. “ Under C, No. 35. the recommendation is “concur and place on file. Under C-No. 36 is actually the number on the next page for Mr. Sheehy. He segregated Section IV, under Public Works Committee Meeting Report and Section C-No. 26, Communication No. 09-350.

Commissioner Moodry segregated Under Section C, No. 17, Communication No. 09-340.

Commissioner Lee under Communications, No. 2, Communication No. 09-325, add to recommendation to hold in Committee of the Whole. No. 3, Communication No. 09-326, also hold that one in the Committee of the Whole. No. 24, Communication No. 09-348, also hold that in Committee of the Whole. On the Committee of the Whole Meeting Report on page 12, Section VI, Communication No. 09-249, change the recommendation to place on file.

It was moved by Commissioner Palmer, seconded by Commissioner Lee to approve the Consent Agenda, exclusive of A-IV of the public Works Committee Report, C-17 and C-26. The motion carried with a unanimous verbal vote.

Under A-4, the Public Works Committee Meeting Report. Commissioner Palmer said all of the signatures have been acquired and so he moved that Communication No. 09-260 be approved. Commissioner Lee seconded the motion and it passed with a unanimous verbal vote.

Under A-XI, Communication No. 09-308, Commissioner Palmer moved to change the recommendation to approve and place on file since all the signatures have been acquired. The motion was seconded by Commissioner Lee and carried with a unanimous verbal vote.

Segregation of No. 17, Communication No. 09-340

Commissioner Moodry said he segregated this communication because there has been some discussion within the community regarding the recycling push and there has been some case studies sited where other communities have instituted more stringent recycling guidelines and it has really saved them money as far as their landfill and disposal costs. He wonders if we have explored any of these options. He would like to hold the contract until we do a little more research.

He moved that Communication No. 09-340 be held in Committee of the Whole pending a little more time to discuss this with Mr. Keeler and anyone else who may be interested. Commissioner Palmer seconded the motion and it carried with a unanimous verbal vote.

Segregation of No. 26, Communication No. 09-350

Chief Executive Babb recommended that we pass this conditioned that all necessary signatures are obtained. It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 09-350 pending acquiring all the necessary signatures for the street closure.

SECTION VI COMMUNICATIONS TO BE READ AND ACTED UPON

1. 09-346 Linda Sajor, IT Manager, requesting acceptance of Arc Electric, low bidder for electrical modification in the MIS Department.

Linda Sajor, IT Manager, explained that in the RFP they had asked for a mandatory walk through with all bidders. At that time we discussed a second option. In the engineering design they showed the electrical coming from the main distribution panel up through the air shafts on the west side of the building in through the men's bathroom through the Department of Revenue into our office. When the two county electricians and I did our walk through on the design, we thought that following the route of the current electrical panel from the main distribution panel to the electrical panel in my office was also a good choice. So, when, we did our mandatory walk through we showed them that as an option. We told them they could bid on one or the other or both. The option of the core drilling is actually a better option for us when we look at any possible wiring upgrades as far as the data communications. It leaves us more room to add communication trays and keep the two separate and stay within the data communication wiring standards. That's why we decided the core building option was a better option for us. Chairman Palmer asked the County Attorney if that was a legal way to go about it. Eileen Joyce replied that the fact that this particular RFP did not fall within the competitive bid requirements and that the total cost is not over \$50,000, you are not required to face your award on the low bid and you are allowed to evaluate the bids on what would be the best proposal for the City-County. If all of the bidders were provided with the same information and provided with the same opportunity to provide either option and they were evaluated on the same basis, the evaluation of those bids should be OK.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 09-346 and place the communication on file.

2. 09-351 Paul Babb, Chief Executive, requesting concurrence in appointment of Chad Silk as probationary entry level firefighter. This communication was discussed at the beginning of the agenda.
3. 09-354 Dave Palmer, Chairman Council of Commissioners, requesting county wide forum be held at the Butte Civic Center to organize our citizens to take back our community.

Commissioner Palmer said he was asking the Council to back this Communication and actively participate in this forum. He feels it is time to bring the community together and actually try to get neighborhood watch in every neighborhood in the city.

Commissioners Shaw, Frasz and Lee spoke in approval of this communication.

Commissioner Palmer moved to refer this communication to the Committee of the Whole. Commissioner Lee seconded the motion and it carried with a unanimous verbal vote.

4. 09-361 Mollie Kirk, Butte Celebrations, requesting consideration of Butte Celebrations proposal to stage an event 7/3/09 at the Original Mine.

Mollie Kirk of Butte Celebrations explained the need for action taken right away because she has only three days to accept this offer.

Chief Executive Babb said his recommendation would be that we refer this to our Festival Coordinator, Josh Peck.

Commissioner Shaw moved to refer this communication to Committee of the Whole and ask Josh Peck take this and review it along with Mollie and her group to make sure that all the i's are dotted and t's are crossed and present it back to council in an appropriate manner. Commissioner Granger seconded the motion. On the question, Commissioner Palmer reminded the Council that every year on the 3rd of July at Chester Steele Park the St. James Healthcare works hard to put on a free concert for the public. He doesn't know if we need the competition for that event. Commissioner Sheehy made a substitute motion that we approve Mollie's request based on Josh's recommendation and place on file. Commissioner Schultz seconded the motion. A roll call vote was taken with 6 yeas and 5 nays. The motion passes.

5. 09-364 Elissa Mitchell, Executive Director, requesting donation of three parcels of land for purposes of neighborhood redevelopment in Central Butte.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 09-364 and place it on file.

Emergency Communication No. 09-366

Kristen Rosa, TIFID Administrator, requesting the Council of Commissioners authorize the Chief Executive to sign easement agreement between the City-County of Butte-Silver Bow and Northwestern Corporation concerning a gas gate station located on Butte-Silver Bow land located in the TIFID and leased to SeaCast of Montana, LLC.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 09-366 and place Communication on file.

2. COUNCIL RESOLUTION NO. 09-22

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY PARTICULARLY DESCRIBED AS THE WEST 14' OF LOT 8, ALL OF LOTS 9, 10, 11, 12, AND 13 IN BLOCK 10 OF THE VOLUNTEER ADDITION NO. 1 AND THE SANSFIELD LODE, PORTION TO COMPLETE, MINERAL SURVEY NO. 25/2, LOCATED IN SECTION 14, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., BUTTE-SILVER BOW COUNTY, MONTANA, IDENTIFIED AS PARCEL NO. 001277230 IN THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA LAND RECORDS, FOR THE PURPOSE OF ECONOMIC DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 09-22 on final reading and passed having been deemed fully read at length.

3. COUNCIL RESOLUTION NO. 09-23

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING THAT PORTION OF THE ALLEY LOCATED WITHIN BLOCK 1 OF THE STOREY ADDITION TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND ABUTTING THE SPRUCE LODE MINING CLAIM, PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 09-23 on final reading and passed having been deemed fully read at length.

4. COUNCIL RESOLUTION NO. 09-24

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING THAT PORTION OF THE ALLEY LOCATED ADJACENT TO LOTS 1 AND 9 OF THE COLORADO LODE MINING CLAIM AND TO LOTS 30 AND 31 OF THE LIZZIE LODE MINING CLAIM 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.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 09-24 on final reading and passed having been deemed fully read at length.

5. COUNCIL RESOLUTION NO. 09-25

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF CERTAIN PARCELS OF LOCAL GOVERNMENT OWNED REAL PROPERTY LOCATED IN THE 400 BLOCK OF EAST PARK STREET, LEGALLY DESCRIBED AS LOTS 5 THROUGH 9 OF THE LIZZIE LODGE (AN UNFILED PLAT), MINERAL SURVEY NO. 795, LOCATED IN SECTION 18, TOWNSHIP 3 NORTH, RANGE 7 WEST P.M.M., BUTTE-SILVER BOW COUNTY, MONTANA (PARCEL NO. 0001906925) AND LOTS 10 AND 11 OF THE LIZZIE LODGE (AN UNFILED PLAT), MINERAL SURVEY NO. 795, LOCATED IN SECTION 18, TOWNSHIP 3 NORTH, RANGE 7 WEST, P.M.M., BUTTE-SILVER BOW COUNTY, MONTANA (PARCEL NO. 0000711300) FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 09-25 on final reading and passed having been deemed fully read at length.

6. COUNCIL RESOLUTION NO. 09-26

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE AMENDED PLAT OF THE KINGS ADDITION NO. 2 AND LOTS ON THE YELLOW JACKET LODGE 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 Palmer, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 09-26 on final reading and passed having been deemed fully read at length.

7. COUNCIL RESOLUTION NO. 09-27

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE ELK RIDGE ESTATES MINOR SUBDIVISION 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, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 09-27 on final reading and passed having been deemed fully read at length.

8. COUNCIL RESOLUTION NO. 09-28

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE TIPPETT MINOR SUBDIVISION 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, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 09-28 on final reading and passed having been deemed fully read and length.

9. COUNCIL RESOLUTION NO. 09-29

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE FLINT CREEK RANCH CLUSTER DEVELOPMENT PHASE III 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, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 09-29 on final reading and passed having been deemed fully read at length.

10. COUNCIL RESOLUTION NO. 09-30

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE PERRY'S LODE MINOR SUBDIVISION 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

