

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

FOR MARCH 3, 2010

The Regular Meeting of the Council of Commissioners was called to order Wednesday, March 3, 2010, in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by the Chief Executive, Paul Babb.

ROLL CALL

12 present, 0 absent,

PRAYER

Commissioner Hall led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 17, 2010.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of February 17, 2010. 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:

- Presentation to the Veteran's Committee for the selection of the Southwest Montana Veterans Home will be given Thursday at 9:00 a.m. at the War Bonnet Inn. A tour will be given of the site and the city on the HUB Bus and the Chamber of Commerce will provide lunch. Public Testimony will take place at 2:00 p.m.
- All appropriation requests have been submitted and Chief Executive Babb will be in Washington DC next week to explain the appropriation requests to the Senators and Congressman Rehberg.
- Class A Tournament begins Thursday and a large turn out is expected.
- Reappraisal letter is signed and will be sent to the Department of Revenue once it passes tonight.

SECTION I 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. RULES COMMITTEE MEETING REPORT

B. PETITIONS

10-01 John Harrington, Building Official requesting on behalf of Carol Lester Craig and Robert Lester Sr. to close and vacate a portion of North Idaho Street adjacent to Block 4 of the Ravin Addition.

C. COMMUNICATIONS

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

Commissioner O’Leary segregated page 10, Committee of the Whole Report, Section VIII, Communication No. 09-365 and page 4, Section I, number 23, Communication No 10-121 and number 24, Communication No. 10-122.

It was then moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 5 exclusive of Committee of the Whole Report, Communication No. 09-365, B 1, and C 1 through 41 with the exception of No. 23 and No. 24.

Segregation – Communication No. 09-365

Mike Sheehy, Commissioner District 10, requesting support on an ordinance that would make all new transmission line within our county be buried from border to border.

Commissioner O’Leary stated he segregated this communication for the following reasons:

- Copies of the letter voted on last week are being circulated.
- Letter states the Commissioners recognition of the need for a line such as the MSTI line and there is no opposition of its construction, but rather of the routes being considered.
- Letter carefully states the Council’s viewpoint of the proposed routes.
- Letter will be mailed to both the DEQ and the Bureau of Land Management.
- Many phone calls were received with messages of support of Council for taking this action including a call from Public Service Commissioner John Vincent who stated he is 100% behind the letter from Council as well as supporting the organization called Move MSTI.

It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried with a unanimous verbal vote to concur with the recommendation of the Committee of the Whole to send the letters to the DEQ and the Bureau of Land Management stating the Council’s position on the MSTI line.

Segregation – Communication No. 10-121

Robert Macioroski, Director Butte-Silver Bow Land Office, requesting Council's approval to accept donated properties from Continental Public Land Trust.

Commissioner O'Leary asked for a staff report regarding this communication.

Rob Macioroski, Director Butte-Silver Bow Land Office, stated the following:

- Has been working closely with Jim Kambich from CPLT for nearly one year regarding the land donation.
- Some land sold by CPLT is located on sites Butte-Silver Bow streets and infrastructure go through.
- Work has been done with Mr. Kambich to finalize the legal descriptions and properties together.
- Apologized for not having maps ready for Council's review, and stated preliminary maps are now ready in his office.

Commissioner O'Leary stated he did not feel Council had sufficient time to study the document regarding the parcels of land to be donated. He further stated the problem he had with this communication (as well as the following resolution, which is under suspension of the rules), is the Judiciary Committee has not had time to review the details. When a staff member was questioned regarding the rush, the reply was there was some concern someone could take a tax assignment on some of the properties before Butte-Silver Bow has a chance to acquire them.

Commissioner O'Leary asked does this means taxes have not been paid on some of these properties.

Mr. Macioroski replied a number of the properties still have taxes owing from 2006 and this is why Butte-Silver Bow needs to acquire the properties before an assignment can be taken on them.

Commissioner O'Leary stated he had some concerns regarding Butte-Silver Bow taking properties which had unpaid taxes because every citizen, business and corporation is expected to pay taxes on time. He commented sometimes taxes are paid late because of financial problems and he knew of one corporation in the community who chose to pay the penalty and interest and pay their taxes late in order to invest their money in the market. Mr. O'Leary further stated CPLT is not an impoverished group and he has an issue with Butte-Silver Bow taking over property in which taxes have not been paid by a large, fairly well off corporation of our town. He continued by stating he wanted some time to review the issue with the other commissioners.

A substituted motion was made by Commissioner O'Leary and seconded by Commissioner Foley to hold Communication No. 10-121 in Committee of the Whole.

Commissioner Sheehy asked Commissioner O'Leary to clarify if the communication would be referred to the Judiciary Committee or have it held in Committee of the Whole.

Commissioner O'Leary replied he wanted to hold the communication in the Committee of the Whole and refer the subsequent resolution to the Judiciary Committee.

Commissioner Palmer asked County Attorney Joyce what would happen to the resolution under Suspension of the Rules, which pertains to the same issue if the communication is held in Committee of the Whole. He also asked County Attorney Joyce about the possibility of someone taking over ownership of the property before it could be placed back in county hands.

County Attorney Joyce replied it would not be possible to pass the resolution if the communication was held in abeyance. She commented this matter has been under consideration of the Land Sales Committee for over a year and the committee was comfortable with taking the property at this time because they felt it to be in the best interest of the public to put these lands in public ownership. Continental Public Land Trust is a non-profit corporation, which was trying to develop the properties and after some issues (such as road issues) came up determined some of the properties would be better served in public hands. Ms. Joyce further stated the Land Sales Committee was comfortable with the acceptance of the land because Butte-Silver Bow will not be paying for the properties and it was seen as quid pro quo to take the properties and forgive the taxes that are delinquent on some of the properties. She further stated taxes have been paid on some of the properties. She asked Mr. Macioroski to explain how many properties had taxes owing.

Rob Macioroski stated taxes have been brought current on a number of the properties and the Land Sales Committee felt the benefits of taking over the properties outweighed the detriments.

Commissioner O'Leary stated he empathized with the situation and understood the importance and value of Butte-Silver Bow acquiring the properties. He also pointed out the property was given to Continental Public Land Trust by Dennis Washington and a number of the properties were sold for a profit. Commissioner O'Leary feels the honorable thing is for the taxes to be paid and therefore, he does not support Butte-Silver Bow taking over the properties until the taxes are paid.

Rob Macioroski felt the response from Mr. Kambich from Continental Public Land Trust would be to let the taxes go delinquent and Butte-Silver Bow would still acquire the land one way or the other. The Land Sales Committee feels it is in Butte-Silver Bow's best interest to take the properties before any assignment could be taken on them.

Commissioner Shaw stated much of this land falls in her district and some of her constituents had experienced the down side to having land bought near their places and having access cut off. She further stated there are water mains, storm and sanitary sewer lines running under many of these undedicated roads especially near the ballpark by Copper Street and Jackson Street where an individual owns the street. Ms. Shaw commented Butte-Silver Bow is between a rock and a hard place but the reality is her constituents are losing easements and access to their land as well as some parks and roads are owned by private individuals.

Commissioner Schultz stated he was concerned about the rush and thought more time should be allowed for review.

Commissioner Moodry asked Rob Macioroski if all the properties were unencumbered and free of liens.

Rob Macioroski replied he was not completely certain but felt comfortable with what they had.

Commissioner O'Leary stated he had no criticism of the Land Sales Committee, but felt there had not been enough opportunity for Council to review the information.

The substitute motion passed with a unanimous verbal vote.

Segregation – Communication No. 10-122

Lori Casey, Senior Planner, requesting Council's approval of the Preliminary Plat of the Irish Eyes Major Subdivision.

Commissioner O'Leary stated he has been in contact with Lori Casey and the developer regarding some minor details in regards to this subdivision. There are issues concerning a buried tank and documents not yet received by the developer and the developer has delivered a letter to Lori Casey requesting an extension.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and passed with a unanimous verbal vote to hold Communication No. 10-122 in abeyance in the Committee of the Whole.

Commissioner Foley asked Commissioner O'Leary if the necessary time frame would be met if the communication was held.

Commissioner O'Leary replied this is a concern but the questions should be resolved by next week or by March 24, 2010 at the latest.

Chief Executive, Babb announced at 8:05 there would be a five-minute break.

ROLL CALL 8:10 P.M.

12 present, 0 absent

SECTION II COMMUNICATIONS TO BE READ AND ACTED UPON

10-95 Patsy Coates, Property Specialist, requesting Council's authorization to award the bid for Request for Proposals/Title and Lien Search to the lowest bidder.

Patsy Coates stated only one bid was received and asked Council to award the bid to that bidder.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed by a unanimous verbal vote to concur with the request of Communication No. 10-95 and award the bid to Summit Valley Title Company for \$65.00 per parcel and place on file.

10-98 Mollie Kirk, Butte Celebrations, requesting Council's authorization for events of the annual St. Patrick's Festivities.

Commissioner Palmer stated the reason this communication was to be read and acted upon was because not all necessary signatures had been obtained. He further stated the necessary signatures are now in place.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed with a unanimous verbal vote to concur with the request of Communication No. 10-98 and place on file.

10-103 Lindsey Ide, Human Resource Director, requesting time on the March 3, 2010 agenda to make a presentation on the re-classification of Lee Phillips and Diane Giop being requested by the Library Board.

Lindsey Ide stated she was before Council this evening to present a request received from the Butte-Silver Bow Library Board of Trustees. The request was to implement a retroactive salary increase for Lee Phillips and Diane Giop. The salary increase would be retroactive for the previous fiscal year as well as the current fiscal year. Ms. Ide stated her understanding was the ultimate budgetary authority for this request lies with Council. She noted Council was given a packet with a time-line, including a spreadsheet, which outlines the budgetary impacts of the request and a copy of the Supreme Court ruling. Ms. Ide explained the Supreme Court ruling states the Butte-Silver Bow Board of Trustees has the authority to set wages for the Chief Librarian as well as library staff. Ms. Phillips was hired as the Library Director August 1, 2007 and the time-line follows down through Fox Lawson and the classification determined through Fox Lawson at which time the Board presented to Butte-Silver Bow the request to bring this to District Court to grant the Board the authority to administer staff salaries. Ms. Ide stated she is asking for Council's permission to grant the requests and would address any questions the commissioners may have.

Commissioner Moodry asked where the funds for this would come from.

Jeff Amerman, Director Finance and Budget replied the funds would come from vacancy savings from position hires that have been deferred in order to have available funding in line items 110 and 140 within the Library's budget.

Commissioner Moodry asked if this would only encumber the current library budget and not any reserves or other non-discretionary funds.

Mr. Amerman replied it would be out of this year's appropriation under this year's budgetary authority.

Commissioner Shaw asked if the next budgetary cycle would be Fox Lawson wages or if there will be an increase that will be deemed by the Library Board.

Ms. Ide replied the requested increases are outside the Fox Lawson classification, which graded Ms. Phillips at a pay grade 13 and the request is for her grade to be consistent with a grade 15 in Fox Lawson. Ms. Ide further stated this does not fall within the benchmark position originally developed during Fox Lawson.

Commissioner Shaw asked if Council has final determination on budgetary numbers.

Ms. Ide replied this is correct.

Commissioner Schultz asked Jeff Amerman if there is a cap on the salary increase since Fox Lawson is not being followed.

Mr. Amerman replied per the ruling this is correct, the Library Board of Trustees controls the wages for the Chief Librarian and all workers within the Library.

Commissioner Foley asked County Attorney Joyce what her recommendation in regards to the Supreme Court ruling.

County Attorney Joyce replied the Supreme Court affirmed Judge Krueger's ruling which states it is the Library Board's decision to determine the salaries and compensation for the Library employees. Butte-Silver Bow is bound to comply with this ruling. Ms. Joyce stated she has had conversations with Lee Phillips, the Library Director, as well as the Library Board and they are aware they have obligations in setting their budget under the Administrative Rules of Montana which require public libraries to follow procedures consistent with state law and local government requirements in preparing, presenting and administering their budget.

Commissioner Shaw asked County Attorney Joyce if the Library had willingly become part of Fox Lawson Study and if part of the Library staff falls under the Fox Lawson Study while others do not.

County Attorney Joyce replied the action taken by the Library was to bring a declaratory judgment action asking the court to declare the Board would have exclusive authority to determine the salaries and compensation of the library employees. The lawsuit was based on the Board not believing they were required to be bound by Fox Lawson. The District Court and the Supreme Court concurred the Library Board has the ultimate authority to set the salaries of the Library employees. Ms. Joyce further explained the Fox Lawson Study does not bind the Library Board and it is up to the Board to determine the salaries and compensation of its employees.

Commissioner Morgan asked if the increases proposed by the board are justified and how the numbers were arrived at.

Ms. Ide replied the library presented a salary survey conducted by the City of Minot North Dakota, which used cities with a much larger tax base than Butte-Silver Bow. Ms. Ide explained she did not believe these findings are consistent with Montana libraries.

Commissioner Moodry asked Jeff Amerman if any preliminary discussions have been held with the Library Trustees concerning funding the salary increases.

Jeff Amerman replied the discussions to date have been focused on the retroactive pay and the impact on the current year's budget and have not looked forward to future budgets.

Commissioner Morgan asked if it was correct to say we don't know what we are looking at for the future.

Jeff Amerman replied this is a correct statement, but in his opinion Council has the overall budgetary authority to set the budget based on the parameters Council is comfortable with and the Library Board can expend it the way they see fit.

Commissioner O'Leary asked Ms. Ide if the salary comparisons came from bigger cities with larger tax bases and if any comparisons were taken from cities of similar size.

Ms. Ide replied some cities from Montana were included in the study, but some of the larger salaries were from cities much larger than Butte-Silver Bow.

Commissioner O'Leary asked if the figures provided in the documents are fair for this county.

Ms. Ide replied it is her belief they are not.

Commissioner O'Leary asked County Attorney Joyce how is this reconciled with legalities.

County Attorney Joyce replied the Supreme Court ruling must be followed.

Chief Executive Babb explained the following:

- Believes the ruling states the Library Board has the ability to set salaries and wages for the library staff.
- County went through an exhaustive study with Fox Lawson to set employees salaries, which included the library.
- The Library Board has stated they do not want to be part of Fox Lawson. The Board wishes to use parts of Fox Lawson, but also wish to bring in other information, which they feel is relevant.
- Feels it is wrong for the Library to do things differently regarding salaries than the rest of Butte-Silver Bow.
- The governing body adopted Fox Lawson, and Ms. Phillips as well as Ms. Giop benefited from it.
- The budget for next year is being closely looked at and some tough decisions will have to be made.

Commissioner Moodry stated his concern with this issue is some services provided by the Library potentially could be lost because of salaries set and wondered if the Library Board understood this.

Chief Executive Babb replied there have not been any conversations concerning this but feels loss of some services could be a possibility because the money for the salary increases has to come from somewhere.

Commissioner Foley stated his concurrence with Commissioner Moodry.

Patti Higinbotham, Chairman, Butte-Silver Bow Public Library Board stated the Library Board would not go out of their budgetary constraints. Ms. Higinbotham further stated the Minot Study included Flathead County Library, Lewis and Clark Library, Great Falls Library, Missoula Library and Bozeman Library and Ms Phillips was hired at a salary \$10,000 to \$15,000 lower than any of those library directors.

Ms Higinbotham then read a prepared statement, which was entered into the record.

Commissioner Morgan asked Ms. Higinbotham if she had the figures from Missoula, Kalispell and Bozeman.

Ms. Higinbotham replied she did and read the following salaries for the year 2009:

- Missoula \$58,916
- Great Falls \$58,402
- Lewis & Clark \$61, 947
- Bozeman \$71,320
- Flathead \$70,956

Commissioner Morgan asked County Attorney Joyce if Council was legally bound to the salaries set by the Board or if there was any leeway.

County Attorney Joyce replied there is a provision in the law requiring appropriate funds be given to the Library in order for them to provide necessary services, which included salaries and there is a separate statute which provides the salaries are in the control of the Library Board. The setting of the Library salaries is within the sole discretion of the Library Board and Council has no say over changing that.

Chief Executive Babb responded in his experience as Chief Executive over the past five years, the Library Board has always accepted the raises given by Butte-Silver Bow. He explained he understood the Library Board has the authority to set salaries, but Fox Lawson was implemented and the Library Board has gone outside of it.

Commissioner Moodry asked Ms. Higinbotham if she realized the Library Board has increased the salary of the Chief Librarian 40%, and Ms. Giop's salary was increased 26% over the last two years

Ms. Higinbotham replied Ms. Phillips needed to be compensated for having a Masters Degree. She explained Ms. Giop has been working at the Butte Public Library for twenty years as a non-union employee, and some people supervised by her make more money than her.

Commissioner Schultz asked Ms. Higinbotham if the longevity pay other employees were receiving should be taken away, and stated Ms. Phillips was hired at an entry level of \$45,000 and would receive a salary increase to over \$60,000 in two years.

Ms. Higinbotham replied she did not wish to take away longevity pay from other employees, and the reason for Ms. Phillips salary increase was due to her obtaining her Masters Degree.

Commissioner Schultz' question to the Library Board is, "what will happen when the increases are passed on and where the money will come from if Council is forced to cut the budget?" Mr. Schultz also asked where the money for the retroactive pay would come from.

Ms. Higinbotham replied the salary increase was retroactive to the time of the District Court ruling.

Commissioner Schultz replied he understood why the salary increase was retroactive, but stated the budget was not changed retroactively.

Ms. Higinbotham replied the ability for retroactive pay came from not filling a position.

Chief Executive Babb stated this is the reason for concern, because next year this position will be filled along with the new salary level and some services may need to be cut.

Ms. Higinbotham replied the Library would not cut services.

Commissioner Schultz asked Chief Executive Babb if a department budgets \$100,000 for something and doesn't purchase it, could they spend the \$100,000 on something else. Mr. Schultz also questioned if there is a certain budget for staff and all the staff isn't hired, what happens to the funds.

Chief Executive Babb replied if a position is funded and not needed, the position would be eliminated the next year and the money saved would go back to the general fund. He explained to Ms. Higinbotham she would require a budget increase next year because she stated services will not be cut, the vacancy will be filled, two positions will have salary increases as well as possible pay increases for Union employees.

Commissioner Moodry stated Council will be charged with balancing the budget next year and if Council chooses to set the budget without increase, the Library Board of Trustees will then be charged with deciding where they will spend their money. He explained there is potential of cutting library services, staff and/or salaries. Commissioner Moodry further stated it was the intent of Council that a portion of the money allocated in September be used to fund another staff member and felt it is wrong to use these funds for retroactive pay.

Ms. Higinbotham stated the vacated position was not filled but two new employees were hired through a grant budget and services had not been cut.

It was moved by Commissioner Palmer and seconded by Commissioner Lee that in light of the lawsuit and the Supreme Court ruling, Council has no other choice than to concur with the request on the side of the Library Board and accept the reclassification of Lee Phillips and Diane Giop and pay the retroactive wages back to the date of lawsuit.

The motion passed with a roll call vote of 7 yeas and 5 nays.

10-105 Jim Smitham, Executive Director Butte Local Development Corporation, requesting Council's authorization for time at the March 3, 2010 meeting for Butte Local Development Corporation to make its Semi-Annual Report on the Economic and Community Development activities of the BLDC.

Jim Smitham thanked Council and gave the following Semi-Annual Report covering July 1, 2009 through December 31, 2009 for Butte Local Development Corporation:

- BLDC partnered projects:
 - 1) Closing financial package for Sears building project.
 - 2) Timberline Fencing expansion and new building.

- 3) Successful completion of the fourth round of testing by SPG at Butte AeroTec Facility.
 - 4) Initiation of survey of local business.
- The number of projects worked on during this time period was thirty-eight and of these twelve are considered active.
 - Seven project proposals were prepared and submitted to companies.
 - Hosted three companies or developers for site reviews.
 - Financial activities included:
 - 1) BLDC reviewed four loan packets.
 - 2) URA reviewed four loan packets requesting URA funding.
 - 3) BLDC closed on three loans.
 - 4) URA closed on four loans.
 - 5) BLDC lent \$659,000, which was leveraged with \$825,000 of commercial lending from local banks and financial institutions.
 - 6) Total amount of economic development projects financed - \$1,484,000.
 - BEAR (Business Expansion and Retention) Program:
 - 1) Total companies interviewed – eight.
 - 2) Major employers will not be interviewed until spring.
 - Business Survey results – (170 responses):
 - 1) In 2009, 22 companies reported increased sales, 18 companies had no change and 23 companies showed a decrease.
 - 2) For 2010, 44 companies projected an increase in sales, 14 companies indicated no change and 4 companies projected a decrease.
 - 3) In 2009, 12 companies showed an increase in employees, 39 companies reported the same number of employees and 14 companies reported a decrease.
 - 4) For 2010, 11 companies projected an increase of employees, 47 projected they would retain the same number and 5 companies projected a decrease.
 - BLDC is now a satellite office for the Procurement Technical Assistance program.
 - The Chafin/Fuhrlander Wind Turbine Project continues to move forward.
 - BLDC is working actively with the Chamber of Commerce Transportation Committee.
 - BLDC and Headwaters RC&D are cooperating to do a survey of local business in Butte-Silver Bow and six surrounding counties.
 - BLDC is working closely with the Montana Aerospace Development Association, MERDI, MSE Technology Applications and the Department of Commerce to develop the Butte AeroTec Rocket & Jet Engine Test Facility.
 - BLDC has been very involved with the Southwest Montana Veterans Home Project.

Commissioner O’Leary commented he and his son had gone to Cape Canaveral to tour the Kennedy Space Center and were able to watch the last night launch of the STS 130 Space Shuttle, which was very exciting. He stated it is equally as exciting to see Butte at the cutting edge, ground floor development of the next generation.

Mr. Smitham responded Commissioner O’Leary was correct regarding Butte being on the cutting edge regarding the contract with the Air Force, which will develop a rocket motor that can be attached to a jet engine plane.

Commissioner Lee asked Mr. Smitham if the eight companies interviewed in regards to the BEAR Program had come to BLDC or if BLDC went out to interview them.

Jim Smitham replied some companies came to BLDC on their own and BLDC went out to interview others.

Commissioner Lee asked Mr. Smitham how successful the BEAR Program has been.

Mr. Smitham replied the BEAR Program makes suggestions to companies regarding available resources, but makes no demands. Mr. Smitham also stated the Program constantly needed to be sold and felt work should be done with the Uptown Association to distribute pamphlets to their membership.

Commissioner Lee stated he was glad to see Butte-Silver Bow have a program which helps business that have fallen upon difficult time and would also like to see this program promoted as much as possible.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and passed with a unanimous verbal vote to place Communication 10-105 and 10-103 on file.

Chief Executive Babb asked County Attorney Joyce if it would be correct to suspend the Rules for Council Resolution No. 10-11 and Council Resolution No. 10-14 and refer Council Resolution No. 10-15 to Judiciary.

County Attorney Joyce replied this is correct.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas and 1 nays to suspend the rules for the purpose of passing Council Resolution No's 10-11 and 10-14 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.

SECTION III

SUSPENSION OF THE RULES FOR FINAL PASSAGE

1. COUNCIL RESOLUTION NO. 10-11

A RESOLUTION OF INTENT TO INCREASE THE SOLID WASTE DISPOSAL FEES FOR THE MELROSE REFUSE DISPOSAL DISTRICT, A "SPECIAL DISTRICT", AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Resolution No. 10-11 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.**

2. COUNCIL RESOLUTION NO. 10-14

A RESOLUTION AUTHORIZING AND APPROVING THE PURCHASE BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA FROM THE JAMES COMPANY, A MONTANA CORPORATION, REAL PROPERTY HEREIN DESCRIBED ON EXHIBIT "A" TO THIS RESOLUTION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that**

Council Resolution No. 10-14 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 12 yeas and 0 nays.

3

COUNCIL RESOLUTION NO. 10-15

A RESOLUTION ACCEPTING THE DONATION BY CONTINENTAL PUBLIC LAND TRUST (CPLT) TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, THE REAL PROPERTY HERIN DESCRIBED ON EXHIBIT "A" TO THIS RESOLUTION FOR THE PURPOSE OF PROMOTING AND FACILITATING REDEVELOPMENT OF THESE PROPERTIES AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. (There was discussion concerning moving Council Resolution No. 10-15 to Judiciary, but no motion was made.)

SECTION IV

**ORDINANCES AND RESOLUTIONS
REFERRED TO JUDICIARY**

1.

COUNCIL ORDINANCE NO. 10-2

AN ORDINANCE AMENDING CHAPTER 2.36 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "PARK AND RECREATION BOARD"; AMENDING SECTION 2.36.040, B-SB MC SUBSECTION A, ENTITLED "CREATED-MEMBERS' APPOINTMENT, TERMS AND REMOVAL-VACANCY-FILLING-OFFICERS' ELECTION" AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2.

COUNCIL RESOLUTION NO. 10-12

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 PLANNING DEPARTMENT FROM THE DNRC TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3.

COUNCIL RESOLUTION NO. 10-13

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 PLANNING DEPARTMENT FROM THE DNRC TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

4.

COUNCIL RESOLUTION NO. 10-16

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 PUBLIC WORKS DEPART-

MENT FROM THE STATE REVOLVING FUND THROUGH THE AMERICAN RECOVERY INVESTMENT ACT TO ASSIST IN FUNDING THE WASTEWATER TREATMENT PHASE I UPGRADES TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

5. **COUNCIL RESOLUTION NO. 10-17**

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 PUBLIC WORKS DEPARTMENT FROM THE STATE REVOLVING FUND THROUGH THE AMERICAN RECOVERY INVESTMENT ACT TO ASSIST IN FUNDING THE BIG HOLE FRESH WATER TRANSMISSION LINE REPLACEMENT PROJECT TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

6. **COUNCIL RESOLUTION NO. 10-18**

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 PUBLIC WORKS DEPARTMENT FROM THE MONTANA DEPARTMENT OF TRANSPORTATION FOR A TRAFFIC SIGNAL LIGHT REPLACEMENT TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

7. **COUNCIL RESOLUTION NO. 10-19**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE EXPEDITED REVIEW OF THE CARQUEST 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

8. **COUNCIL RESOLUTION NO. 10-21**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE IRISH EYES MAJOR 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.

9. **COUNCIL RESOLUTION NO. 10-23**

A RESOLUTION RELATING TO BUTTE-SILVER BOW TAX INCREMENT INDUSTRIAL INFRASTRUCTURE DISTRICT #2; CALLING FOR A PUBLIC HEARING ON THE ISSUANCE OF TAXABLE TAX INCREMENT REVENUE BONDS TO FINANCE THE COSTS OF ADDITIONAL IMPROVEMENTS TO THE ELECTRICAL POWER SUBSTATION; TO REFUND THE TAXABLE TAX INCREMENT BONDS, SERIES 1996 AND SERIES 1997; TO AUTHORIZE THE NEGOTIATED SALE THEREOF; AND PAYING COSTS ASSOCIATED WITH THE SALE OF THE BONDS.

Chief Executive Babb stated he has been in contact with all departments regarding the necessity for all Board Agendas and Committee meeting minutes to be sent to Council.

Commissioner O’Leary stated there is a misdate on Council Resolution No. 10-15 on the signature of Dave Palmer; the year should be 2010 instead of 2009.

Commissioner Shaw asked County Attorney Joyce if Council Resolution No. 10-15 was premature since the Communication was held in abeyance.

County Attorney Joyce replied the Resolution was prepared in anticipation of the communication being concurred with, however Council regarding acceptance of the properties can hold the communication in the Judiciary Committee pending the decision. The resolution will become mute if Council decides against accepting the properties.

Commissioner Shaw asked County Attorney if this would still be the case if communication was held in the Committee of the Whole.

County Attorney Joyce replied this is correct.

ADJOURN

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

The meeting adjourned at 9:20 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER