

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

FOR JULY 15, 2009

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **July 15, 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 Moodry was excused

PRAYER

Commissioner Frasz led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JULY 1, 2009

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of July 1, 2009. The motion carried with a unanimous verbal vote.

ITEMS NOT ADDRESSED ON THE AGENDA

In accordance with the provisions of section 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 Communications 09-515 and 09-517 to be added to the Agenda of July 15, 2009 Meeting of the Council .

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

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

Tom Daniel, 3502 E Lake, came to the microphone and stated that he was a business owner and a property owner in uptown Butte and that he was a Folk Festival supporter.

His concern was the actions taking place on Main Street between Broadway and Park on Friday night as he was walking with his family. He didn't feel anything had been learned from the 2008 Folk Festival and the Festival had been turned into another late night drinking fest.

He commended and thanked the Council for trying to control what was going on Main Street on Friday night and not allowing this to continue on Saturday night. Mr. Daniel feels that Butte is very lucky to have such a wonderful event as the Folk Festival, and he hoped it would be kept as the family event it was intended to be.

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb commented on the following:

- Thanked everyone who assisted during the Folk Festival. He felt it was very well run, and that Butte should be proud to have 100,000 plus people come to our community for three days or more with few problems occurring. He commended Josh Peck, festival Coordinator, for a job well done.
- Informed the Council on July 28, 2009, Alec Hansen, with Montana League of Cities and Towns, would be in Butte at 1:30 pm in the First Floor Conference Room to review legislative items addressed in the last legislative session and upcoming events with the Montana League of Cities and Towns.
- The first session with interest-based bargaining was held on Monday with the Electricians. Butte-Silver Bow is trying a new way of bargaining. Instead of traditional bargaining we are now doing interest-based bargaining, which seemed to go well. Butte-Silver Bow will be doing the same with the Operating Engineers on Monday. He will keep Council informed as negotiations move along.
- There will be a tour of SeaCast on July 24, 2009. Kristen Rosa is in charge of arranging the tour, which is scheduled for the morning and if that time doesn't work, he would arrange for another time in order to accommodate scheduling.
- Informed Council that with the reorganization of the Public Works Department, Dave Cunningham, a Professional Engineer, was hired and will start on July 27, 2009. He commented that Butte-Silver Bow now has a Professional Engineer on the service side, and an Environmental Engineer, Rick Larsen, on the Operations side.
- A clinic is being planned regarding H1,N1 (Swine Flu), through the Health Department to reach out to all providers, i.e. healthcare of daycare, in order to update them as to what to watch for, so that our community will be well prepared.

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. PERSONNEL 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 Lee made a friendly amendment Page 7, Section XI, Communication 09-466: The recommendation should be changed to read Committee recommends the demolition of 313 S Idaho and Communication 09-466 be placed on file.
- Commissioner Lee made a friendly amendment Page 2, Section XII, Communication 09-477: The recommendation should be changed to Committee recommends that Communication 09-477 be approved and placed on file

- Commissioner Palmer made a friendly amendment Page 5 No. 5 Council Resolution No. 09-48 should be changed to read Final Plat instead of Preliminary Plat.
- Commissioner Lee segregated Communication 09-391 Page 6, Section V.
- Commissioner Lee segregated Communication 09-476 Page 7, Section XI.

It was moved by Commissioner Palmer seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1-4 exclusive of Section V, Communication 09-391 and Section XI, Communication 09-476, and Section B Communications 1-14.

Segregation of Item 5, Communication 09-391

Sean Johnson, Chairman Evel Knievel Days Committee, requesting temporary street closures.

Commissioner Lee commented the communication was held in the Committee of the Whole due to the need to address some issues in respect to the residences having ingress and egress to their property. He stated that after speaking with Josh Peck and Commissioner Shaw, his understanding is that these concerns have been addressed.

Josh Peck, Interim Festival Director had the revised closures for the Commissioners review. He explained that the reason for the hold-up was because of issues with Covert Street. After discussions with the residences and the committee he felt the best solution was to keep Covert Street open and move the jumps back 15 feet. Events on Saturday night with Spanky Spangler and Trigger Gum would close Covert Street for several hours.

In the past on Evel Knievel Days, E. Granite Street remained open as an access for the residences of E. Broadway and E. Granite Streets, as well as access for the businesses, which include the Broadway Café, the Helsinki Bar and Harp Cote’s rental storage units. However, this year the Super Moto-Cross has been moved, and access to E. Granite Street will be closed. Residences will not have a northerly access because of this closure.

All of the requests for closures have been finalized into one document and all the required signatures had been obtained.

It was moved by Commissioner Lee and seconded by Commissioner Palmer to approve the request for temporary street closures for Evel Knievel Days and place Communication No. 09-391 on file. The motion passed with a unanimous verbal vote.

Segregation of Item 11-Communion 09-476

Josh Peck, Mainstreet Uptown Special Projects Coordinator requesting access to use the lot on corner of Broadway and Main for Krazee Days 2009 on July 18, 2009.

Commissioner Lee stated that this communication was not approved at the last Committee of the Whole Meeting as permission from the Department of Transportation had not been received. Approval from the Department of Transportation has since been received along with approval from all other departments.

It was moved by Commissioner Lee and seconded by Commissioner Palmer to approve the request to use the lot on the corner of Broadway and Main for Krazee Days, 2009 on 7/18/2009 and place communication No. 09-476 on file. The motion passed with a unanimous verbal vote.

SECTION II COMMUNICATIONS TO BE READ AND ACTED UPON

1. COMMUNICATION NO. 09-496

Richard McLeod, Jim's Bar requesting street closure of the 2700 block of Elm Street between Hayes and Garfield Streets Friday, July 17th from 12:00 p.m. through 7:00 a.m. Sunday, July 19, 2009 for 6th annual Miracle and Motorcycles.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve Communication 09-496 and place on file. The motion passed with a unanimous verbal vote.

2. COMMUNICATION NO. 09-497

Don Kronenberger, Sr, BSB Commissioner District 5, requesting BSB's support of Randy O'Leary to have access to his mining claim in the Highland Mountains, Humburg Survey No. 4849 and Olympia Survey No. 4853.

Commissioner Kronenberger requested Randy O'Leary be recognized.

Chief Executive Babb asked Commissioner Kronenberger what his intent was concerning this communication.

Commissioner Kronenberger stated that his intent was to refer this communication to the Public Works Committee as the land involves access by a BLM road and also by a County road. He believes the BLM has overstepped their bounds in denying Mr. O'Leary access and that his property is better accessed by the BLM road than by the County road.

At this time, Mr. O'Leary, 2435 Yale, came to the microphone to address the Council and made the following comments:

- Approximately 380 acres in the Highlands was purchased a month ago, and the new owner closed the area to hunting and blocked public roads.
- The BLM informed him they were closing the top of one of the roads, which in turn created a private road. He believes the top of Soap Gulch Road is being closed, which is the preeminent road.
- He was told that he will have to build a road through a Riparian area, across a creek and up a steep hill in order to access his property at a cost that could be as much as \$12,000 and would cause financial hardship; instead of having access to his mining claim from the existing road, which has been there since 1896. He also would need to obtain permits from various agencies in order to build this road.
- He needs to know if the County owns the road that is on his private property as the BLM is claiming.
- He was not notified by mail that he would not have access to his property.

Commissioner Kronenberger asked Mr. O'Leary's son, Ryan O'Leary, who recently returned from Iraq, to say a few words.

Ryan reiterated his father's concerns as well as the loss of recreational access and stated he felt communication regarding this project should have been conveyed to the landowners.

Chief Executive Babb recommended this be referred to the Public Works Committee and Mr. Macioroski, Director of Land Records Department be requested to research the issue.

It was moved by Commissioner Kronenberger and seconded by Commissioner Palmer to move Communication No. 09-497 to the Public Works Committee and request Rob Macioroski, Director of Land Records, research the issue. The motion passed with a unanimous verbal vote.

3. COMMUNICATION NO. 09-504

Don Kronenberger, Sr. BSB Commissioner District 5, requesting time on July 15, 2009 agenda for presentation regarding access problems involving Davis and Enrooth Beef Trail Estates and Vigilante Estates Etal.

Commissioner Kronenberger stated a letter was attached to this request explaining some of the background of the problems and has requested three individuals address the issues. The Planning Department put forth, and the Commission approved, new subdivision regulations that address many of the issues that the speakers will be talking about tonight.

Dr. Marek Zaluski, 1020 Saddle Horn Drive, came to the microphone and presented a power point presentation for the Council's viewing. Included in his presentation were maps, sketches and documents that he explained would tell the story of how he and his wife were trapped between two fighting subdivisions.

After his presentation, Dr. Zaluski requested that Butte-Silver Bow restore unhindered legal access to his property and to limit traffic on the access road. He further stated that Davis-Enrooth had verbally agreed to this solution.

Mark Merrick, 107 Canada Creek Drive, came to the microphone and read a letter from his neighbors, Greg and Brenda Ebner, who could not be present. The letter addressed the Ebners' concerns pertaining to the usage of their private road, Solitude Drive.

He requested that Butte-Silver Bow Planning Board authorize and implement the construction of the Terminus cul-de-sac so that the issue of un-authorized and increased road traffic on the private road along with the possibility of any law-suits be put to rest.

Ron Davis, 105 Solitude Drive, came to the microphone and stated that they had originally built a road in the Subdivision in Davis-Enrooth No. 2. This road was Silver Canyon Road, which was a County road. When Subdivision No. 2 was completed, the road was changed in order to be improved. The Planning Department informed them that the road would no longer be a County road, and that it now is a private road under private ownership with private maintenance and snow removal.

He stated that the first Subdivisions were ten acres or larger. The Planning Board later informed them that the sub-divisions could be as small as one acre. They opted to keep the sub-divisions at five acres.

Father Finnegan who had 250 acres beyond them, asked for an easement for access to his property. That easement granted on the Plat is seven lots. Father Finnegan has since increased the number of lots. Mr. Davis expressed concern that the cul-de-sac was never constructed. Mr. Davis stated their sub-divisions were finished and that they no longer own the road. The landowners own to the center of that road. He commented on the damage to the road from heavy usage and of the high volume of traffic. For this reason, a gate was erected with signage "Solitude is a private road". The gate was locked because Mr. Finnegan made no effort to control the traffic.

Father Finnegan informed the group through a lawyer that a cul-de-sac would never be built and that he would sue for easement rights before he would ever build a cul-de-sac.

Mr. Davis explained they had never intended to harm Mr. Zaluski and the gate was locked because Father Finnegan had not followed what he had been told he had to do by the Planning Department. The lock has been removed. Mr. Davis requested Butte-Silver Bow do something to control access to this road.

Commissioner Kronenberger asked Mr. Davis of the status of the litigation between the Finnegan side of the gate and Davis-Enrooth side. Mr. Davis replied the litigation had been dropped after the lock was removed from the gate.

Commissioner Kronenberger has received mixed input from residences on Solitude regarding the road becoming a County road again. Some people favor this, but others say that they bought their property on the basis of limited traffic on a private road and are not interested in a public road.

Ron Davis reiterated Commissioner Kronenberger's comments.

Commissioner Palmer was concerned that some of the people that needed to be at the meeting were not. He felt that Mr. Finnegan and Jon Sesso from the Planning Department should be consulted. His major concern is approval of the Plat required the construction of a cul-de-sac and this condition was ignored. He commented that the people down the road have suffered and he feels Father Finnegan should be held accountable for that.

Commissioner Foley requested Mr. Hess address the matter pertaining to the cul-de-sac and any other issues that were brought up tonight.

Steve Hess, Assistant Planning Director, stated it was true that a cul-de-sac was required under the Preliminary Plat. He explained that normally under a Preliminary Plat you have up to two years to construct the roads as long as you provide a bond and they had hoped that this issue would be resolved within that time frame. He further stated that the Planning Department would require Mr. Finnegan to construct the cul-de-sac.

Commissioner Sheehy asked Sam Cox, Chief Deputy County Attorney what the next step was in resolving this problem.

Sam Cox, Chief Deputy County Attorney replied the first step would be to ask the Planning Department to conduct an investigation and begin legal action to execute upon the bond. He explained that if the bond was sufficient, the county would be able to perform the work for the cul-de-sac.

Commissioner Sheehy asked if the bond would cover the cost of building the cul-de-sac.

Steve Hess, Assistant Planning Director felt Father Finnegan should be contacted and be apprised of the legal issue being resolved and is now required to construct the cul-de-sac. If Father Finnegan does not comply, legal action should be taken.

It was moved by Commissioner Palmer and seconded by Commissioner Lee that Communication No. 09-504 be referred to the Committee of the Whole. The motion carried with a unanimous verbal vote.

4. COMMUNICATION NO. 09-510

Bill Melvin, Acting Facilities Manager, requesting Council authorize Chief Executive to sign the notice to proceed allowing Jay Fortune Construction to begin renovation at Butte Water Co. Building.

Bill Melvin, Acting Facilities Manager came to the microphone to explain the situation and clarify there was no impropriety on the part of the architect or the contractor. He explained that everything was done above board and within the rules of the Council and Montana Code. He introduced Steven Hinick and stated that Mr. Hinick would give a detailed description of the process. Steven Hinick, 1325 W Quartz, came to the microphone and stated that he was the owner of W.H. Hinick & Associates Architects, Engineers and Planners. Mr. Hinick read a letter, which gave an overview of the need to get design and the solicitation of price quotations for the Entrance Renovations at the Butte Water Company Building. The commissioners were given a copy of this letter. Mr. Hinick then explained that he hoped that his presentation of these facts would clear up any misconception about any inappropriate actions.

Commissioner Schultz commented that if this information had been presented before, the outcome would have been different. He never felt that there was any wrongdoing on the part of Jay Fortune or Bill Melvin, and Council did not have all of the information at the time of their decision. He apologized for the matter becoming an “unfortunate circus”, and has full confidence in the process.

Commissioner Foley felt the other bidders were not given the opportunity to re-submit their bids, and the County Attorney had informed the Council that approval was not needed on any contract under \$50,000. He questioned Mr. Melvin as to why this communication was given to the Council in the first place.

Bill Melvin, Civic Center Manager explained the process of Council requires anything that is to be signed by The Chief Executive must have Council authorization. This step was missed and he apologized for the matter.

Commissioner Foley then asked Bill Melvin if it was normal procedure for the low bidder to be requested to resubmit a lower bid.

Bill Melvin replied it was common practice and sited an example.

Commissioner Schultz questioned Mr. Melvin as to whether it would be appropriate in the future to give the contractors the bid amount and have them give their bid based on that amount.

Chief Executive, Babb responded with the following comments:

- Council needed to trust the staff is doing a good job.
- It is not the Council's business to negotiate with private contractors.
- This should have been referred to Public Works for the answers.
- A Substitute motion was made to deny, and Council rules state that it cannot be reversed.
- Mr. Fortune feels his reputation as a contractor is being questioned. Everything had been above board and since Mr. Fortune was the low bidder, it was appropriate to negotiate with him to meet the budget. The contractor had been willing to drop his quote to meet Butte-Silver Bow's budget and the agreement was made to move forward with the project.
- The contractor purchased the doors and Butte-Silver Bow has the budget, but is unable to put the project out for bid again.
- This now needs to be done "In House", but Butte-Silver Bow does not have the doors and is unable to move forward at this point.

Commissioner Foley commented directly to the Chief Executive that he was the one who had made the motion and did not feel that he had made the motion in haste and he did not feel that this problem was the fault of the Commissioners. The information provided to the Council was not prepared or given to them properly and he totally disagreed with this

He did not question Mr. Fortune's ability as a contractor and this was not the time and place to point fingers. The Commissioners job was to make decisions based on the information presented to them. He also took offense at Chief Executive comments that he had made the decision to deny the communication in haste.

Chief Executive, Babb questioned as to why this to not sent to the Committee of the Whole and informed Commissioner Foley that the County Attorney had stated that night there was nothing done illegally.

Commissioner Foley stated that he had not said there was anything illegally done. He commented that he felt that "it just didn't look right". He explained that he had not made any accusations of improprieties. The reason that the communication was denied was because the Commissioners were not comfortable with it.

Chief Executive, Babb responded to Commissioner Foley to use civility and decorum, and this should not be a “shouting match”.

Commissioner Foley replied that he felt that Mr. Babb had started the shouting match.

Commissioner Schultz stated that he also took issue with the statement by Chief Executive, Babb. He explained that he had merely stated that what the County Attorney had said could be used as a possible process, and didn't feel the Council had acted in haste. He stated that because all information was not presented to them, he was concerned that Butte-Silver Bow would be put in a comprising situation. He explained that his intent was to be fair to all of the contractors.

Commissioner Palmer commented that the County Attorney had been misquoted. He explained she did not say it was not necessary to obtain Council's authorization for permission to sign a contract and further explained because the work would be under \$50,000, it was only necessary to solicit quotes rather than go out for bid, and the County Attorney knew that this was a quote and not a bid. Therefore, the County did not have to advertise for bids since it was under the \$50,000 limit.

Chief Executive, Babb asked Chief Deputy County Attorney, Sam Cox, what the appropriate solution would be.

Sam Cox, Chief Deputy County Attorney commented that Commissioner Palmer's statement was correct and that the County had acted properly. He further explained that Council approval is necessary any time there is an expenditure of funds and he stated that on July 1, 2009, Council was asked to authorize this expenditure of funds and that it had been denied. He stated that the Commissioners now needed to make a decision as to how to proceed.

Commissioner Schultz asked Chief Deputy County Attorney, Sam Cox if a new communication could be issued which would authorize Bill Melvin to work out a quote with Jay Fortune to do the work necessary at the quoted amount.

Deputy Attorney Sam Cox responded that it would not be a good idea and would open the door for litigation.

Chief Executive, Babb stated Jay Fortune had been contacted and was willing to sell Butte-Silver Bow the doors. If Butte-Silver Bow purchased the doors, they could be installed by Butte-Silver Bow's carpenter, Marty Alexander. He also stated that the County Attorney's office had been consulted on the matter, and had approved.

Commissioner Schultz feels this would be fair since Mr. Fortune had already spent the funds to purchase the doors. He asked whether Mr. Fortune could be reimbursed for the amount of work that he had by-passed as well. He also asked Mr. Cox if it would be possible to negotiate with Mr. Fortune for the labor of the installation of the doors,

Sam Cox, Chief Deputy County Attorney replied that there would be potential problems associated with doing this and that he felt that it was more important at this time to provide Mr. Fortune reimbursement for the amount that he had expended.

It was moved by Commissioner Frasz and seconded by Commissioner Palmer to pay Jay Fortune for the purchase price of the doors and with the County Attorney's advice to go ahead with Butte-Silver Bow's carpenter and have the doors installed. He also asked for notification that Mr. Fortune was not at fault.

Commissioner Sheehy asked Chief Deputy County Attorney Cox if some percentage could be given to Mr. Fortune to reimburse him for his time.

Deputy County Attorney, Sam Cox recommended Council act upon the approval to purchase the doors at this time, and bring other specific items to the Council at another time.

The motion passed with a verbal vote of 9 yeas and 2 nays by Commissioner Schultz and Commissioner Foley.

It was moved by Commissioner Palmer and seconded Commissioner Lee to place Communication No. 09-510 on file. The motion passed with a unanimous verbal vote.

5. COMMUNICATION NO. 09-513

Dave Palmer, Commissioner District 12 requesting Chief Executive appoint a committee to explore designating an area of the Historic District as a Repository for Historic Structures to be demolished.

Commissioner Palmer explained he feels many historic structure being torn down could be preserved and he believes there is plenty of County-owned ground in the Historic District which could be used as a repository for these structures. Once these structures are moved and set up on this site, they would be then put out for proposals. He would like the committee to look at structuring some type of process to allow for this.

He believes a fund should be set up by the Council of Commissioners and by the Historic Preservation's budget. He recommended that The Butte Restoration Alliance would be a good place to start if the Chief Executive is willing.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to place Communication No. 09-513 in the Committee of The Whole and hold it in abeyance. The motion passed with a unanimous verbal vote.

Commissioner Frasz spoke of the Longfellow School as having difficulties with opposition from the community but not from the neighbors in removing the school, he also feels that this same type of issue was about to happen with the Greeley School. Now is the time to act upon these issues.

Commissioner Morgan feels there should be a time-frame included in the Developers' Packet for restoration of these buildings.

Commissioner Schultz informed the Council a Committee has been formed to explore the possibilities of using the Greeley School. He feels Commissioner Palmer's proposal is on target and also feels covenants are necessary to make certain that whoever purchased the homes in the historic district maintained the historical dignity.

Commissioner Shaw asked if this would be a holding area for these historic homes or was it a neighborhood.

Commissioner Palmer responded that it would be a block within the historic area.

Commissioner Shaw questioned as to whether the homes would stay in that area permanently.

Commissioner Palmer replied that in the Developer's Packet, ownership of the land would go with the home.

Commissioner Foley commended Commissioner Palmer for the effort to preserve historical value and he agreed with Commissioner Morgan that we need to be careful with what is being done. He indicated he feels the need for some investment and he would not volunteer his district to be the repository for these dilapidated homes. He also believes it is not realistic to try to save every historic house in this community and feels many of the houses would fall apart when moved.

Commissioner Schultz commented that many of the historic houses are scattered in areas of new development and are not in keeping with what is going on. He indicated that a neighborhood dedicated with covenants for the older homes was a good solution.

Commissioner Hall disagreed with Commissioner Foley about the houses falling down when they were moved. She commented that many of these homes could be moved with the right craftsmanship.

Commissioner Shaw stated she had bought a house for a dollar approximately six years ago and moved it. The home was over 100 years old and that there was a great deal of expense involved with the move. She likes the idea of a historic neighborhood, but wasn't sure how feasible it would be. She was also informed that when her house was moved, it lost its historic integrity.

Commissioner Foley wanted to clarify to Commissioner Hall that he didn't say they didn't build houses the way they used to and since she was such a supporter of this historic area, maybe the skating rink across from her home and Clark's Park would be an ideal place for the repository.

6.

COMMUNICATION NO. 09-515

Jay Fortune, Fair Board Chairman requesting Council of Commissioners authorization of temporary street closure of a portion of Civic Center Road from the entrance to the Public Works Corral on the East to the Bus Transfer Station entrance on the West from July 28, 2009 through August 1, 2009 for the City-County Fair.

Chief Executive Paul Babb stated that all of the necessary signatures had been obtained.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to concur with the request of Communication No. 09-515 and place on file. The motion passed with a unanimous verbal vote.

7.

COMMUNICATION NO. 09-517

George Everett, Executive Director Mainstreet Uptown requesting the Council of Commissioners authorization to temporarily close to vehicle traffic one block of West Park Street between the alley of Gamer’s Café and the entrance to the Phoenix Parking deck near the intersection of Dakota Street to hold the remainder of the Butte Farmers’ Market on Saturday mornings this summer from 9 am to 1 pm through September 26, 2009.

Chief Executive Paul Babb informed Council that all of necessary signatures had been obtained.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to concur with the request of Communication No. 09-517 and place on file. The motion passed with a unanimous verbal vote.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to amend his motion and add that the previous closure of Main Street be revoked. This motion passed with a unanimous verbal vote.

SECTION III

**ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

1.

**COUNCIL BILL NO. 09-3
ORDINANCE NO. 09-3**

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 204 AND SECTION 10.40.050 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (BSB MC) ENTITLED “SPEED LIMIT”; “ESTABLISHING A 25 MPH SPEED LIMIT BEGINNING AT THE INTERSECTION OF MONTANA STREET AND BEEF TRAIL ROAD CONTINUING WEST ALONG BEEF TRAIL ROAD APPROXIMATELY 3900 FEET; ESTABLISHING A 35 MPH SPEED LIMIT BEGINNING AT THE INTERSECTION OF BEEF TRAIL ROAD AND LITTLE BASIN CREEK ROAD CONTINUING SOUTHWEST ON BEEF TRAIL ROAD UNTIL THE ASPHALT PAVEMENT ENDS APPROXIMATELY 10,750 FEET; ESTABLISHING A 25 MPH SPEED LIMIT ON BEEF TRAIL ROAD CONTINUING SOUTHWEST FROM WHERE THE ASPHALT PAVEMENT ENDS AND THE GRAVEL ROAD BEGINS APPROXIMATELY 3 MILES UNTIL LITTLE BASIN CREEK ROAD ENDS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and seconded by Commissioner Lee that Council Bill No. 09-3, Ordinance No. 09-3 be placed on seconded reading and passed having deemed being read at length. The motion carried with a roll call vote of 9 ayes and 2 nays.**

2.

COUNCIL RESOLUTION NO. 09-44

A RESOLUTION ACCEPTING THE DONATION OF THE LIZZIE LODGE, AN UNFILED PLAT, MINERAL SURVEY NO. 795, LYING IN SECTION 13, TOWNSHIP 3 NORTH, RANGE 7 WEST, P.M.M. AND SECTION 18, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer and Seconded by Commissioner Lee that Council Resolution No. 09-44 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas, 0 nays.**

3. COUNCIL RESOLUTION NO. 09-45

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE DAWSON EAST 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 and seconded by Commissioner Lee that Council Resolution No. 09-45 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas, 0 nay.**

4. COUNCIL RESOLUTION NO. 09-46

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE DYNAMITE VIEW 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 and seconded by Commissioner Lee that Council resolution No. 09-46 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas, 0 nays.**

5. COUNCIL RESOLUTION NO. 09-47

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE AMENDED PLAT OF TRACT 21-B1 OF THE KEARNEY 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 and seconded by Commissioner Lee that Council Resolution No. 09-47 be passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas, 0 nays.**

6. COUNCIL RESOLUTION NO. 09-48

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 and seconded by Commissioner Lee that Council Resolution No. 09-48 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas, 0 nays.**

7. COUNCIL RESOLUTION NO. 09-49

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE AMENDED PLAT OF LOTS 15A 16 AND 17 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 Palmer and seconded by Commissioner Lee that Council Resolution No. 09-49 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas, 0 nays.**

Commissioner Palmer announced that Council would not be meeting next week.

Commissioner Morgan stated that there would be a meeting of the Greenway Board Thursday in Anaconda at 4:30 pm.

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 9:35 pm.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER