

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

FOR JUNE 16, 2010

The Regular Meeting of the Council of Commissioners was called to order Wednesday, June 16, 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

11 present, 1 absent. Commissioner Palmer was excused.

PRAYER

Commissioner Hall led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF MAY 19, 2010.

It was moved by Commissioner Lee and seconded by Commissioner Moodry to approve the minutes of the Regular Meeting of June 2, 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:

- Work is continuing on the budget and all department budgets must be submitted to Jeff Amerman by the end of this week. Informational employee meetings will be scheduled before the final budget is turned over to Council. These meetings are tentatively scheduled for June 29 and June 30, 2010. The final budget should be submitted to Council the first week of July.
- Thanked Jennifer Shea and the Board of Realtors for the summit they hosted last Thursday.

SECTION I

PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING THE ARRA BOND ALLOCATION FOR THE WILLIAM CHARLES PROJECT LOCATED IN THE TIFID. (Communication No. 10-327 being held in Committee of the Whole) Proof of Publication was noted.

Commissioner Moodry asked Josh Peck if holding the communication would jeopardize any planning of the Evel Knievel Days events.

Josh Peck, 1001 W Park stated the final draft for Evel Knievel Days would be resubmitted to Council for the July 7, 2010 Regular Meeting, and if approved by Council, the events would not be jeopardized.

It was moved by Commissioner Shaw, seconded by Commissioner Sheehy and passed with a unanimous verbal vote to move Communication No. 10-349 to the Committee of the Whole and hold in abeyance until the final draft is obtained from Mainstreet Butte.

Segregation – Communication No. 10-357

Linda Quakenbush, Helsinki Yacht Club, requesting Council's authorization of a street closure Friday – June 18, 2010 from 4:30 p.m. to 1:30 a.m. and Saturday – June 19, 2010 from 8:00 a.m. to 1:30 p.m. for a street dance and classic car show.

Commissioner Shaw stated the times listed on the agenda are correct, but the times stated on the letter of request for the street closure are incorrect. The letter lists the time on June 18, 2010 as 4:30 p.m. to 1:30 p.m. and the time for June 19, 2010 is listed as 8:00 a.m. to 1:30 p.m., which should be midnight. Commissioner Shaw stated for the record the times for this street closure are; Friday June 18, 2010 – 4:30 p.m. to 1:30 a.m. and Saturday from 8:00 a.m. to midnight. Ms. Shaw further stated, for the record, the barricades would be removed and set to the side of the street after 8:00 p.m.

It was moved by Commissioner Shaw, seconded by Commissioner Lee and passed with a unanimous verbal vote to concur with the original recommendation to concur with the request of Communication No. 10-357 and place on file.

Segregation – Communication No. 10-394

Bob Rowling, Butte-Silver Bow Parks/Recreation Director, requesting Council's authorization of a request for proposals for the Butte-Silver Bow Aquatic and Recreation Project.

Commissioner Schultz stated he is concerned about the request for proposals because it is beyond the scope of the reason the committee was originally formed. Mr. Schultz further stated he feared asking for proposals which exceeded repairing or replacing the pool might doom the entire project.

It was moved by Commissioner Schultz and seconded by Commissioner Moodry to hold Communication No. 10-394 in abeyance in the Committee of the Whole.

Commissioner Foley stated his concurrence of Commissioner Schultz's concerns and stated he had voiced these concerns to the members of the swimming pool committee.

Commissioner Schultz explained he felt the formation of the committee was well intentioned by selecting a wide cross section of interests in recreation in Butte, but adding the tennis courts and the golf course to the agenda might jeopardize the entire project.

Commissioner Moodry echoed Commissioner Foley's comments and stated he feared placing other items on the aquatics bond would put the swimming pool project in jeopardy.

Commissioner Sheehy stated his agreement of the request for proposals for the Butte-Silver Bow Aquatic and Recreation Project and explained he feels the time is right to investigate all issues and ask the voters of Butte-Silver Bow to make the decision.

Commissioner Morgan asked County Attorney Joyce if the request for proposal could be changed or adapted before the bond issue is prepared.

County Attorney Joyce replied the bond issue is a different process than the request for proposal and if the request for proposal is written properly it could be accepted in part if so desired.

Commissioner Frasz stated he was in favor of sending out the request for proposal in order to investigate the Aquatic and Recreation Project but wanted to be certain it would be possible to opt out of anything Council felt would not be accepted by the voters of Butte-Silver Bow.

Commissioner Foley responded by saying he felt Council should be upfront before sending out the request for proposal rather than take something away later.

Commissioner Schultz stated Council should consider the cost of the study and felt it would be more expensive to have other items such as the tennis courts and the golf course club house included on the request for proposal.

Chief Executive Babb explained his understanding was after the firm completed the request for proposal a bond would be sized with four different options for the voters to choose from and asked Commissioner Foley if this was correct.

Commissioner Foley responded it was not clear if the options would be a part of the request for proposal and restated his opinion that the focus of the study should only be the aquatics park.

Chief Executive Babb stated the voters should be able to learn of all options and then speak for themselves.

Commissioner Moodry asked if the request for proposal could be broken into three sections.

Chief Executive Babb stated the most important issue to him is the cost of maintenance.

Commissioner Schultz commented Council should slow down and investigate the cost of the proposals.

Commissioner Morgan asked for clarification regarding the cost of the request for proposal.

Chief Executive Babb explained the firm chosen from the request for proposals will give the cost to size the bond. This firm will then promote the bond and if passed will build the facility.

Commissioner Foley echoed Commissioner Schultz's comment regarding Council slowing down in order for further investigation before going out for proposals.

Jocelyn Dodge, 114 Waldren Drive explained the request for proposal is to look at the cost of an aquatic facility and to determine if a golf and tennis facility will be included. The request for proposal contains a section which separates the cost of each task in order to determine whether the golf and tennis facilities will be included in the final negotiations.

Commissioner O'Leary commented cooperation and collaboration are necessary to keep this process moving along.

Commissioner Hall stated every major city in the State of Montana has great recreation parks and feels now is the time to move this process forward and it should be done as a package.

Commissioner Morgan asked Commissioner Foley how the three projects in the request for proposal came about.

Commissioner Foley explained the projects were on the desks of the committee at the first ad hoc swimming pool meeting.

Commissioner Schultz stated he is not opposed to the swimming pool but Butte-Silver Bow has limited resources.

Commissioner O'Leary stated he was getting depressed listening to Commissioner Schultz's doomsday comments.

Chief Executive Babb requested a Council member to call for the question

Commissioner Morgan called for the question. The call for the question passed with a verbal vote of nine yeas and 2 nays.

The motion to send Communication No. 10-394 to The Committee of the Whole and hold in abeyance passed with a verbal vote of seven yeas and four nays. Commissioners Lee, Hall, O'Leary and Frasz voted nay.

SECTION III

COMMUNICATIONS TO BE READ AND ACTED UPON

10-355

Pam and Mike Rudolph, Rudolphs Furniture, requesting Council's consideration regarding the concerns of businesses and residents in uptown Butte relating to the street closures during Evel Knievel Days.

Commissioner Lee explained he has had recent discussions with Commissioner Shaw and Josh Peck in regards to the closure of Park Street during Evel Knievel Days and has

learned of some changes to this closure. Commissioner Lee asked Josh Peck to explain these changes.

Josh Peck, 1001 W Park stated a public meeting was held at the Finlen Hotel to address the concerns of the Rudolph's as well as other uptown businesses and residents regarding street closures during the festivals (Evel Knievel Days in particular). The Evel Knievel Days Committee is being proactive by working on a plan to not put fencing up in front of businesses on East Park and is hoping this will be a positive solution for all parties concerned.

Commissioner Shaw commented a new street closure will be presented to Council before the next regular meeting.

It was moved by Commissioner Shaw and seconded by Commissioner Lee to move Communication No. 10-355 to The Committee of the Whole and hold in abeyance.

Commissioner Moodry asked Josh Peck what Council is being asked to act upon in this communication.

Josh Peck explained Mr. Rudolph wanted his concerns brought to the attention of Council.

Commissioner Hall stated there should be some ways to help these businesses find a creative way to cash in on the 50 to 60,000 people that will be in uptown Butte for Evel Days.

Josh Peck stated this is the goal of the Evel Committee.

A substitute motion was made by Commissioner Morgan and seconded by Commissioner Granger to note and place Communication No. 10-355 on file. The motion passed with a verbal vote of 9 yeas and 2 nays. Commissioners Sheehy and Lee voted nay.

[10-396](#) Terry Schultz, District 4 Commissioner, Butte-Silver Bow Council of Commissioners, requesting Council's authorization of an ordinance prohibiting "texting" while operating a motor vehicle.

Chief Executive Babb explained members of the public would not be allowed to comment on the following communications.

Commissioner Schultz stated his concerns regarding texting and driving and commented twenty eight states in our country prohibit texting while driving.

Commissioner Foley asked Commissioner Schultz if the similar recent proposal by a group of students in Anaconda had passed.

Commissioner Schultz replied he was not aware of that proposal being passed.

It was moved by Commissioner Schultz, seconded by Commissioner Sheehy and approved with a unanimous verbal vote to move Communication No. 10-396 to the Judiciary Committee for review.

[10-397](#)

Terry Schultz, District 4 Commissioner, Butte-Silver Bow Council of Commissioners, requesting Council's authorization of a resolution affirming all Butte-Silver Bow services, programs and laws are administered without regard to race, sex, national origin, of religion and be published in The Butte Weekly and The Montana Standard once adopted.

Commissioner Schultz explained Butte-Silver is not a diverse community, but there is a growing trend towards bullying or harassing people who are not native Montanan's. Mr. Schultz further explained the reason he proposed this resolution is to affirm to the community it is inappropriate to make any group a target of discrimination and as a government Butte-Silver Bow recognizes the rights of all people whether they are citizens of this country or not.

It was moved by Commissioner Schultz and seconded by Commissioner Sheehy to move Communication No. 10-397 to the Judiciary Committee.

Commissioner O'Leary stated this resolution would not create any type of new law, but would be a reaffirmation of Butte-Silver Bow policies.

Commissioner Moodry asked Commissioner Schultz if it would be possible to publish and reaffirm the policies already in place by Butte-Silver Bow rather than adopt a new resolution.

Commissioner Schultz stated he wanted a resolution drafted and would stand by his motion to send Communication No. 10-379 to the Judiciary Committee.

Commissioner Sheehy stated his support of the proposed resolution by Commissioner Schultz.

[10-398](#)

Terry Schultz, District 4 Commissioner, Butte-Silver Bow Council of Commissioners, requesting Council's authorization an ordinance requiring Pit Bulls be tethered on their home premises and on a tether or leash when within one hundred meters of any location where people congregate.

Commissioner Schultz asked Ed Randall to address Council regarding an incident which place approximately one week ago as an impetus to his communication.

Ed Randall 5 Redwood stated he spoke with Commissioner Schultz one week ago regarding an issue with a Pit Bull that may or may not have entered a personal home and attacked a dog. Mr. Randall explained there is an ongoing investigation into this matter and the Pit Bull in question has been placed in the Animal Shelter.

Commissioner Schultz asked Mr. Randall if Animal Services received more calls involving Pit Bulls.

Mr. Randall replied Animal Services receives calls regarding all breeds of animals, but there are many calls involving Pit Bulls and Rottweilers.

Commissioner Schultz stated a Pit Bull allegedly jumped a fence, entered someone's home and attacked the family pet. Commissioner Schultz further stated in his research he discovered in the last four years 73% of all human deaths due to animal attacks came from Pit Bulls and Rottweilers with Pit Bulls accounting for 60% of the deaths. Mr. Schultz stated Nationwide Emergency Room statistics show one of every five children admitted to an emergency room is related to dog bites. Commissioner Schultz also commented Pit Bulls were banned in Great Britain in the 1990's and over 500 communities have banned Pit Bulls from their community. Pit Bulls are banned in the state of Ohio and the city of Denver. Commissioner Schultz explained his intent was not to ban Pit Bulls from the community but rather to ensure they be tethered when outside.

It was moved by Commissioner Schultz and seconded by Commissioner Sheehy to move Communication No. 10-398 to the Judiciary Committee.

Commissioner Moodry stated his agreement with Commissioner Schultz's concerns regarding Pit Bulls and explained the ordinance proposed by Commissioner Schultz would not affect responsible Pit Bull owners.

Commissioner O'Leary commented an ordinance was passed in the mid nineties outlawing half wolf dogs out of the same concerns Commissioner Schultz brought up. Mr. O'Leary stated many emails regarding tethering Pit Bulls in a fenced yard or cage had been received and assured those concerned this portion of the resolution would be discussed thoroughly before including it in the ordinance. Commissioner O'Leary stated he has respect for Pit Bulls as hunting dogs and told of a feral hog hunt he attended in East Texas. During this hunt Pit Bulls were kept on chains until bay dogs herded the hogs into one area. Once the Pit Bulls were released the hogs were down within five seconds and Commissioner O'Leary explained it was a sight to behold and one he never wanted to see again. Commissioner O'Leary stated he did not want to see this same thing happen to a child.

Commissioner Morgan commented he was concerned with targeting one breed and with creating a resolution requiring tethering inside a fenced yard. Commissioner Morgan reminded Council of the leash law already established by Butte-Silver Bow which applies to all breeds of dogs. He stated it was wrong to target one single breed.

Commissioner Schultz explained the Judiciary Committee would be responsible for a solution concerning whether or not Pit Bulls would be required to be tethered inside a fenced yard. Commissioner Schultz stated Pit Bulls can easily jump a four foot fence, but a possible solution could be requiring Pit Bulls be kept behind a six foot fence so they could run free in their yard.

The motion passed with a verbal vote of 10 yeas and 1 nay. Commissioner Morgan voted nay.

Commissioner Shaw invited members of the audience to attend the next meeting of the Judiciary Committee which will be Wednesday June 23, 2010 at 7:00 p.m.

Chief Executive Babb asked members of the audience to remain civil as they exited the meeting.

SECTION IV

**ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

COUNCIL RESOLUTION NO. [10-52](#)

1. RESOLUTION RELATING TO A PROJECT ON BEHALF OF WILLIAM CHARLES BUTTE MONTANA, LLC AND THE ISSUANCE OF A REVENUE BOND TO FINANCE THE COSTS THEREOF UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; APPROVING THE PROJECT; AUTHORIZING THE ISSUANCE OF A BOND THEREFOR; AND ALLOCATING A PORTION OF THE COUNTY’S AUTHORITY TO ISSUE RECOVERY ZONE FACILITY BONDS

COUNCIL RESOLUTION NO. [10-53](#)

2. A RESOLUTION RECOGNIZING THE ACCEPTNACE OF HOME INVESTMENT PARTNERSHIP PROGRAM FUNDING TO CONSTRUCT THE MEADOWLANDS SENIOR HOUSING PROJECT.

SECTION V

**ORDINANCES AND RESOLUTIONS
FINAL READING**

COUNCIL RESOLUTION NO. 10-51

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE COLUMBIA GARDENS MAJOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFILCT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Lee, seconded by Commissioner Moodry and seconded by Commissioner Moodry that Council Resolution No. 10-51 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yea and 0 nay.**

Commissioner Moodry announced a lease agreement with the Mining Museum was close to completion.

ADJOURN

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

The meeting adjourned at 9:10 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER