

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

For August 4, 2010

The Regular Meeting of the Council of Commissioners was called to order Wednesday, August 4 , 20, 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 Granger was excused.

PRAYER

Commissioner Hall led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JULY 21, 2010.

It was moved by Commissioner Palmer and seconded by Commissioner Lee to approve the minutes of the Regular Meeting of July 21, 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:

- Butte-Silver Bow County Fair was a great success.
- Ad Hoc Park Land Committee has been appointed and will meet this week.
- Economic Outlook Seminar for Southwest Montana was held today, which projected the mining and manufacturing industry as being stable, but tourism is expected to be down.
- Invited Council to attend the employee picnic Thursday beginning at 11:30 a.m. behind the Courthouse.

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

B. PETITIONS

C. COMMUNICATIONS

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

There being none, 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 4, Section B 1, and Section C 1-11

SECTION II COMMUNICATIONS TO BE READ AND ACTED UPON

COMMUNICATION NO. 10-472

R. Edward Banderob, Citizen, 2601 Grand Avenue, Butte, MT, requesting Council's authorization to create a Dangerous/Vicious Animal Public Safety Conference Committee.

Mr. Banderob 2601 Grand, thanked Council and Chief Executive Babb for allowing him to bring his concerns before Council, and explained the following:

- Forty years of dogs and potholes is no longer a joke.
- There are over one thousand dog bite victims per day seeking medical treatment.
- The AMA reports dog bites are the second leading cause of childhood injury.
- Seeking a cohesive attitude within our community of responsible dog ownership.
- Commended government and the media on the progress made over the past few years.
- Feels much more needs to be done.

Mr. Banderob asked to have the following inserted to his communication:

- Under In That, "this is a community attitude issue, it needs a community approach"

Commissioner Palmer explained Mr. Banderob's Communications were placed on this section of the agenda in order to obtain input from Council as to where they should be assigned. Mr. Palmer further explained the Judiciary Committee is currently reviewing the Animal Control Ordinance and feels sending these communications to Animal Services for review and a report back to Council could hold up action on the ordinance. Commissioner Palmer asked Council how they would like to proceed regarding this matter.

Commissioner Shaw stated the County Attorney's office and Animal Services have submitted a "Draft Ordinance" which is being reviewed by the Judiciary Committee. Commissioner Shaw further stated the request by Commissioner Schultz concerning tethering and being breed specific are beyond the scope of the Judiciary Committee and belong with the Animal Board, and also stated the issues brought forth by Mr. Banderbob are beyond the scope of the Judiciary Committee as well.

Commissioner Morgan stated Butte-Silver Bow already has an Animal Control Board established and it is not necessary to create a Dangerous/Vicious Animal Conference Committee.

It was moved by Commissioner Morgan and seconded by Commissioner Foley to note and place Communication 10-472 on file.

Commissioner Foley made the following statements concerning Mr. Banderob's communications:

- The Animal Board has made some progress regarding this matter, but feels this is a community issue and attitudes need to be changed.
- The three proposals by Mr. Banderob will not address the issue, and the current ordinance, with the revisions being considered, addresses all of these concerns.
- The ordinance is not being fully enforced, but progress is being made.
- It is not right for government to single out specific breeds of dogs.
- Requiring liability insurance would be impossible to enforce.
- Wants to see statics regarding number of dog bites relative to breeds.
- More time is needed to give Animal Services a chance to move forward and to continue with enforcing the ordinance.
- Cannot support any of Mr. Banderob's communications.

Commissioner Schultz stated there are certain breeds of dogs which are more dangerous than others and the responsibly for these dogs lies with the dog owner. Commissioner Schultz also stated the Judiciary Committee has the expertise to make decisions regarding the Animal Ordinance without referring the issue to Animal Services.

Commissioner Sheehy invited Mr. Banderob and any interested parties in the audience to the Animal Service Committee Meeting Thursday at 5:30 at the Health Department.

Commissioner Moodry explained there is an ordinance in place which addresses all of these issues. This ordinance defines what constitutes a dangerous animal as well as how these animals should be handled. Commissioner Moodry further explained harboring dangerous animals is unlawful and the Butte-Silver Bow Ordinance is well defined regarding the responsibility of the pet owner.

Commissioner Schultz responded by saying an incident must occur before any actions is taken and the reason for his proposal was to prevent an incident happening in the first place.

Commissioner Hall explained the people in the audience were in attendance because they are responsible pet owners who care about their dogs. She further explained Mr. Banderbob is here because of irresponsible pet owners and asked the audience for their assistance in solving the issues of irresponsible pet owners.

The motion passed with a unanimous verbal vote.

COMMUNICATION NO. 10-473

R. Edward Banderob, 2601 Grand Avenue, Butte, MT, requesting Council's authorization to create an ordinance for official recognition/designation of dangerous dog breeds and non-dangerous dog breeds.

Mr. Banderob, 2601 Grand, asked to have the following inserted to his communication:

- Before dangerous, "potentially"
- After dangerous, "or hazardous"
- Under In That,
 1. "We require special labels signs and regulations for other hazards in the community"
 2. "Other communities have breed specific special ordinance requirements".
 3. "Most insurance companies coverage is breed specific".

Mr. Banderob explained he is a proponent of protecting humanoids from predator critters. He further explained his communication is not intended to replace the vicious/dangerous animal ordinance, and stated potentially dangerous applies to a specific genetic population. Mr. Banderob also stated breed specific ordinances are prohibited in twelve states, but are allowed in nine states. There is no specific statute at state level in twenty nine states.

It was moved by Commissioner Palmer and seconded by Commissioner Morgan to note Communication No. 10-473 and place on file.

Commissioner O'Leary stated an ordinance regarding highbred wolf-dog crosses was passed in 1990 to address the concern of rabies. The cross breeds did not respond to the rabies vaccine. Commissioner O'Leary further stated Mr. Banderob's idea of obtaining a statistical report from the medical community regarding the issue of dangerous breeds would be beneficial.

Commissioner Foley asked Ed Randall from Animal Services if his office kept track of reports of animal bites and what type of breeds these bites are from.

Ed Randall, Community Enrichment-Animal Services, stated records have been kept from the day he started in December. His office tracks bites, the date they occur, where the bite victims were cared for, and the type of breed if possible. Mr. Randall stated records before December were not kept.

Commissioner Foley asked Mr. Randall to provide Council with this information for their review.

Commissioner Schultz explained he feels the trouble with statistics is the face of the victim is lost, and one bite is too many. He further explained the intent of his ordinance was to save both the dog and the victim before an incident occurs.

Commissioner Foley stated the bottom line is Council legislates based on the facts and he requested the reports from Mr. Randall in order to review the data.

Commissioner Morgan stated he appreciated Mr. Banderob's attempt to curb a potential dog problem, but the dangerous breeds presented in Mr. Banderob's communications are not the only dogs that bite. Commissioner Morgan also stated a breed specific dog ordinance is wrong and hoped Council would consider all the facts.

Commissioner Schultz stated he felt Council should err on the side of caution.

Commissioner Moodry commented Pit Bulls are large powerful animals, and if not properly trained, can be dangerous, but so are guns in the wrong hands. Commissioner Moodry further commented responsible Pit Bull owners should be afforded the same consideration as a responsible gun owner.

Commissioner Shaw called for the question. Commissioner Morgan seconded the motion. The motion passed with a unanimous verbal vote.

The motion by Commissioner Palmer to note and place Communication No. 10-476 on file passed with a unanimous verbal vote.

COMMUNICATION NO. 10-473

R. Edward Banderob, 2601 Grand Avenue, Butte, MT, requesting Council's authorization to create an ordinance requiring owners/keepers of dangerous dog breed, and/or crossbreeds with predominant dog breed features, animals to procure limited liability insurance.

Mr. Banderob, 2601 Grand, asked to have the following inserted to his communication:

- Before dangerous, "potentially".
- After dangerous, "or hazardous".

Mr. Banderob stated his communication asks if Butte-Silver Bow is willing to officially recognize these specific breeds are more potentially dangerous than other breeds. Mr. Banderob further stated the proposed ordinance would not replace the dangerous or vicious animal ordinance already in place in the current ordinance.

Commissioner Palmer asked Mr. Sam Cox from the County Attorney's office if home owner's insurance covers dog bites.

Mr. Cox replied it depended on the specific policy.

Commissioner Palmer commented all dogs are capable of biting and proof of insurance should be required when an animal license is purchased.

Commissioner Schultz explained the necessary insurance would be premises liability, but this will not help if the incident happens off the premises. Commissioner Schultz also explained it varies by individual insurance companies as to whether or not any dog bites would be covered. He further stated requiring liability insurance for dog owners would be unenforceable.

Commissioner Morgan agreed with Commissioner Schultz's statements and stated it is not reasonable to require liability insurance when a dog license is purchased.

Commissioner Schultz followed-up by stating we should not handicap responsible dog owners.

Commissioner O'Leary stated he saw a dog pen on Platinum Street which butts up to the sidewalk. Commissioner O'Leary further stated there may be some liability for Butte-Silver Bow and feels it is necessary to require a set-back for dog pens.

It was moved by Commissioner Morgan and seconded by Commissioner Moodry to note Communication No. 10-474 and place on file. The motion passed with a unanimous verbal vote.

Chief Executive Babb asked the audience to keep their thoughts and emotions to themselves as they left and explained there would be time to express their opinions at the public meeting Thursday night at the Health Department on Front Street.

SECTION III

SUSPENSION OF THE RULES FOR FINAL PASSAGE

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas and 0 nays to suspend the rules for the purpose of passing Council Resolution No.'s 10-61 and 10-62 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.

1. COUNCIL RESOLUTION [10-61](#)

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY PARTICULARLY DESCRIBED AS LOTS 7 AND 8 IN BLOCK 6 OF THE WALKERVILLE TOWNSITE, CITY OF WALKERVILLE, MONTANA, IDENTIFIED AS PARCEL NO. 1904850 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 and seconded by Commissioner Lee that Council Resolution No. 10-61 be placed on final reading and passed having been deemed read at length.**

Commissioner O'Leary stated he had no problem passing the resolution, but felt there is no compelling reason to suspend the rules rather than running this through the normal process.

Commissioner Palmer pointed out Communication 10-475 explains a public hearing was held concerning this matter and no one spoke against it. The reason for suspending the rules is to speed up the process and turn over the property to parties it was awarded to.

The motion passed with a roll call vote of 11 yeas, and 0 nays.

2.

COUNCIL RESOLUTION [10-62](#)

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY PARTICULARLY DESCRIBED AS LOTS 4, 5, 6, 7, 8, 9, 10 AND 11 IN BLOCK 12 OF THE LEGGAT AND FOSTER ADDITION, BUTTE-SILVER BOW COUNTY, MONTANA, IDENTIFIED AS PARCEL NO. 0001903385 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 and seconded by Commissioner Lee that Council Resolution No. 10-62 be placed on final reading and passed having been deemed read at length. The motion passed with a roll call vote of 11 yeas, and 0 nays.**

SECTION IV

**ORDINANCES AND RESOLUTIONS
FINAL READING**

1.

COUNCIL RESOLUTION [10-60](#)

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA, FOR A MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT-ECONOMIC DEVELOPMENT PROGRAM UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED. **It was moved by Commissioner and seconded by Commissioner that Council Resolution No. 10-60 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 11 yeas and 0 nays.**

Commissioner Palmer stated the reason for referring communications to various boards is Council doesn't have either the expertise or the time to deal with all issues.

Commissioner Schultz stated he understood the reason for referring items to boards, but has an issue with deferring to these boards.

Commissioner Shaw commented Council does not defer to staff, but rather obtains their recommendations before making decisions.

Commissioner O'Leary asked Chief Executive Babb if there used to be a place on the agenda for citizen comment.

Chief Executive Babb stated the County Attorney's Office advised against having a place on the agenda for citizen comment regarding matters on the agenda.

Commissioner Moodry announced the preliminary budget was discussed at the Finance and Budget Committee Meeting. Commissioner Moodry stated the intent of the Finance and Budget Committee is to send the budget with some proposed considerations, amendments and questions to full Council for consideration.

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 8:55 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER