

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

For December 15, 2010

The Regular Meeting of the Council of Commissioners was called to order Wednesday, December 15, 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

8 present, 3 absent, 1 presiding

PRAYER

Commissioner Hall led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF DECEMBER 1, 2010.

It was moved by Commissioner Morgan and seconded by Commissioner Granger to approve the minutes of the Regular Meeting of December 1, 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

There was no Chief Executive's Report as the Chief Executive was absent.

SECTION I

PUBLIC HEARING

TO HEAR PUBLIC COMMENT REGARDING THE 2010 BULLETPROOF VEST GRANT FROM THE UNITED STATES DEPARTMENT OF JUSTICE. (Communication No. 10-631 being held in Committee of the Whole). Proof of Publication.

Acting Chief Executive Palmer opened the Public Hearing at 7:33 p.m. and called for proponents.

On the third and final call, there being none, Acting Chief Executive Palmer called for opponents.

On the third and final call, there being none, Acting Chief Executive Palmer closed the Public Hearing at 7:34 p.m.

Acting Chief Executive Palmer announced the order of the agenda would be revised to place Communications to Be Read and Acted Upon before the Consent Agenda.

SECTION III COMMUNICATIONS TO BE READ AND ACTED UPON

10-603 Sheriff John P. Walsh, Butte-Silver Bow Law Enforcement Department, requesting Council's authorization of the confirmation of two probationary Police Officers on December 29, 2010 to the Butte-Silver Bow Law Enforcement Department.

Acting Chief Executive Palmer explained the confirmations were moved ahead because the December 29, 2010 meeting is a Committee of the Whole and in order for the motions to be effective by December 29, 2010 the confirmations need to be approved at a Regular Meeting.

Sheriff John P. Walsh introduced the two Probationary Police Officers with the following:

1. Ryan Fallang:

- Born in Butte and later moved to Billings, Montana.
- Graduated from Billings Senior.
- Stationed in Georgia while in the Army.
- Attended Montana Tech.
- Worked at the Butte Detention Center prior to being hired with the Butte-Silver Bow Law Enforcement Department.
- Completed the Montana Law Enforcement Academy in March of 20 as well as the Field Training Officer Program.

2. Tim Schmidt:

- Born and raised in Butte.
- Graduated from Butte High School.
- Attended Montana Tech and received a Bachelor's Degree in Business.
- Completed the Montana Law Enforcement Academy and the Field Training Officer Program.

It was moved by Commissioner Moodry, seconded by Commissioner Henderson and passed with a unanimous verbal vote to concur with the request of Communication 10-603 and confirm Officers Tim Schmidt and Ryan Fallang to the Butte-Silver Bow Law Enforcement Department.

10-665 James and Jana Mackin, 24 O'Neil, and Jeff Hoffman, 6 Gladstone Terrace, requesting time on the December 15, 2010 agenda to discuss a petition, signed by residents of Walkerville.

Acting Chief Executive Palmer stated a meeting with Mr. and Mrs. Mackin and Mr. Hoffman was held earlier in the day at which time it was decided to refer the communication to the Committee of the Whole Meeting, December 29, 2010. Mr. Palmer explained a round table discussion with the Community leaders of Walkerville will be held December 20, 2010 at 7:00 p.m. in Room 103 of the Courthouse and stated all Commissioners are invited to attend and to share their input.

B. COMMUNICATIONS

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

Commissioner Morgan segregated Section B, No. 9, Communication No. 10-654

It was then moved by Commissioner Moodry, seconded by Commissioner Sheehy and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4 and Section B, 1-36 exclusive of No. 9, Communication No. 10-654.

Segregation – Communication No.

Emily Tafoya, MSDI Executive Director, requesting Council's approval of Special Events Permit for the dates of February 11-12, 2011 to conduct Montana's Premiere Sled Dog Race Events

Commissioner Morgan asked if the necessary liability insurance has been secured and inquired about the use of business restroom facilities instead of utilizing port-a-potties. Commissioner Morgan further questioned the liability of citizens interacting with the dogs.

Josh Peck stated he has spoken with the insurance company and was assured the 1.5 million aggregate required insurance is forthcoming. Mr. Peck introduced Emily Tafoya and stated the event will be great for Butte and the uptown businesses.

Emily Tafoya, 11 East Street, Pony, Montana, Executive Director of Montana Sled Dogging explained she would be contacting Hunter Brothers in regards to securing port-a-potties.

Commissioner Morgan commented he wanted to make certain Butte-Silver Bow's Animal Services is on the same page as far as the type of activities that will take place which include the public.

Ms. Tafoya explained the sled dogs will be tethered and kept under control at all times. Ms. Tafoya also explained she has been in contact with Ed Randall from Animal Services regarding all activities.

Josh Peck stated a possible barrier between the dogs and the public has been discussed with Mr. Randall and explained Mr. Randall has been very involved in the process.

Ms. Tafoya explained again the sled dogs are very well trained and will be tethered at all times and that the public will not be able to touch the dogs.

Commissioner Moodry commented the event will be great for Butte, but wants to make certain Mr. Randall from Animal Services is involved by either a letter from Mr. Randall or his signature on the Special Events Application.

Josh Peck suggested the communication be held in abeyance in order for him to obtain a letter from Mr. Randall.

Commissioner Morgan asked again if there would also be some type of assurance regarding having port-a-potties for the event.

Ms. Tafoya assured Commissioner Morgan there will be port-a-potties for the event.

Commissioner Schultz explained he shared the same concerns as Commissioner Morgan and asked Ms. Tafoya if the public will be interacting with the dog teams.

Ms. Tafoya stated the public will only be able to view the dogs while they are tethered.

Commissioner Schultz asked if the public would be able to make physical contact with the dogs.

Ms. Tafoya replied no and explained again the dogs will be tethered and the public will not be allowed to touch the dogs.

Commissioner Foley stated he attended the Junior Dog Sled Event last year which he explained was well done and further stated the dogs were well-behaved.

It was moved by Commissioner Morgan and seconded by Commissioner Moodry to hold Communication No. 10-654 in abeyance and refer to the Committee of the Whole pending signatures from Ed Randall and proof of insurance.

Commissioner Schultz stated he did not understand the reason for delay and asked Josh Peck if he had any reason to hold the communication.

Josh Peck stated he was confident he would be able to obtain a signature from Ed Randall and further stated the insurance and port-a-potties will be in place before the event.

A substitute motion was made by Commissioner Schultz and seconded by Commissioner Hall to concur with the request of Communication No. 10-654 and place on file.

The motion passed with a roll call vote of 4 yeas and 3 nays.

SECTION III

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

COUNCIL BILL NO. 10-12 ORDINANCE NO. 10-12

AN ORDINANCE AMENDING ORDINANCES NO. 53 AND 325, ALSO KNOWN AS THE “ZONING ORDINANCE” AND TITLE 17 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) WHICH SECTION ADOPTED THE ZONING REGULATIONS OF BUTTE-SILVER BOW, STATE OF MONTANA; AMENDING CHAPTER 17.04 ENTITLED “DEFINITIONS”; AMENDING CHAPTER 17.06 ENTITLED “DISTRICTS, BOUNDARIES AND MAP”; AMENDING THE TITLE OF CHAPTER 17.21 ENTITLED “I/OS INSTITUTIONS AND OPEN SPACE ZONING” TO BE REPLACED WITH “OS-C CONSERVATION OPEN SPACE ZONING DISTRICT”; REPEALING SECTIONS 17.21.010, 17.21.020, 17.21.030, 17.21.040, 17.21.050, 17.21.060, 17.21.070, 17.21.080, 17.21.090 AND 17.21.100 ADDING NEW SECTIONS TO BE NUMBERED

17.21.110, 17.21.120, 17.21.140, 17.21.150, 17.21.160, 17.21.170, 17.21.180, 17.21.190, 17.21.200, 17.21.210 AND 17.21.220; AMENDING THE TITLE OF CHAPTER 17.22 ENTITLED “C-1 LOCAL COMMERCIAL ZONE” TO BE REPLACED WITH “OS-D DEVELOPABLE OPEN SPACE ZONING DISTRICT”; ADDING NEW SECTIONS TO BE NUMBERED 17.22.010, 17.22.020, 17.22.040, 17.22.050, 17.22.060, 17.22.070, 17.22.080, 17.22.090, 17.22.100, 17.22.110, 17.22.120; ADDING A NEW CHAPTER TO BE NUMBERED 17.23 ENTITLED “LOCAL COMMERCIAL ZONE”; RENUMBERING SECTIONS 17.22.010, 17.22.020, 17.22.030, 17.22.040, 17.22.050, 17.22.060, 17.22.070, 17.22.080, 17.22.090, 17.22.100, 17.22.110 AND 17.22.120 TO BE NUMBERED AS 17.23.010, 17.23.020, 17.23.030, 17.23.040, 17.23.050, 17.23.060, 17.23.070, 17.23.080, 17.23.090, 17.23.100, 17.23.110 AND 17.23.120; AMENDING CHAPTER 17.38 ENTITLED “SPECIAL PROVISIONS”; AMENDING CHAPTER 17.40 ENTITLED “OFF STREET LOADING AND PARKING” AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**COUNCIL BILL NO. 10-13
ORDINANCE NO. 10-13**

AN ORDINANCE ADOPTING REGULATIONS FOR THE CONTROL AND MANAGEMENT OF STORM WATER TO BE CODIFIED AS CHAPTER 32 OF TITLE 13 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED “STORM WATER MANAGEMENT”; REGULATING THE DESIGN, CONSTRUCTION, USE AND MAINTENANCE OF ANY DEVELOPMENT OR OTHER ACTIVITY WHICH MAY RESULT IN IMPACTS TO WATER BODIES, PROVIDING FOR ADOPTION OF MUNICIPAL STORM WATER ENGINEERING STANDARDS; PROVIDING FOR OWNERSHIP OF STORM WATER MANAGEMENT FACILITIES AND BUTTE-SILVER BOW PARTICIPATION; SETTING FORTH REGULATIONS FOR MANAGEMENT, CONSTRUCTION AND INSPECTION OF FACILITIES; DEFINING AND PROHIBITING ILLICIT DISCHARGES TO THE BUTTE-SILVER BOW STORM WATER SYSTEM; PROVIDING FOR APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PERMITS AND FEES; PROVIDING FOR PENALTY FOR VIOLATION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION IV

**ORDINANCES AND RESOLUTIONS
FINAL READING**

COUNCIL RESOLUTION NO. [10-91](#)

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY PARTICULARLY DESCRIBED AS LOTS 11 AND 12 IN BLOCK 64 OF THE ORIGINAL BUTTE TOWNSITE, BUTTE-SILVER BOW COUNTY, MONTANA, IDENTIFIED AS PARCEL NO. 002004900 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 Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-91 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-92](#)

A RESOLUTION OF THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA, BUTTE-SILVER BOW CHAMBER OF COMMERCE AND THE NATIONAL ASSOCIATION OF RAILROAD PASSENGERS SUPPORTING THE PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008 AND URGING FEDERAL SUPPORT FOR REESTABLISHING PASSENGER RAIL SERVICE THROUGH SOUTHERN MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-92 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-93](#)

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING WEST PARK PLACE, A PORTION OF EAST PARK PLACE AND A PORTION OF SOUTH PARK PLACE WITHIN OR ADJACENT TO BLOCK 23 AND THE GREELEY SCHOOL PARK OF THE SILVER BOW PARK ADDITION TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-93 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-94](#)

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 METRO SEWER FROM THE STATE REVOLVING FUND (SFR) TO ASSIST IN FUNDING THE PHASE 1A WASTEWATER TREATMENT PLAN UPGRADES TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-94 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-95](#)

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 DISTRICT COURT FROM A FEDERAL APPROPRIATION FOR AN AFTER SCHOOL PROGRAM TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Moodry and seconded by Commissioner Morgan that Council Resolution No. 10-95 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 7 yea and 0 nay with Commissioner Granger Abstaining.

COUNCIL RESOLUTION NO. [10-96](#)

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 RISK MANAGEMENT DEPARTMENT FROM THE RISK MANAGEMENT CASH RESERVES FOR THE PURPOSE OF PURCHASING OSHA COMPLIANCE SAFETY MONITORING EQUIPMENT AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-96 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-97](#)

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 DISASTER AND EMERGENCY SERVICES FROM A FEDERAL APPROPRIATION FOR THE CONSTRUCTION OF AN EMERGENCY OPERATIONS CENTER TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-97 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-98](#)

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 FROM A DEPARTMENT OF JUSTICE GRANT FOR THE ESTABLISHMENT OF A DRIVING UNDER THE INFLUENCE (DUI) DRUG COURT TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-98 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-99](#)

RESOLUTION RELATING TO BUTTE-SILVER BOW TAX INCREMENT INDUSTRIAL INFRASTRUCTURE DISTRICT #2; AUTHORIZING THE ISSUANCE OF TAXABLE TAX INCREMENT INDUSTRIAL INFRASTRUCTURE DEVELOPMENT IMPROVEMENT AND REFUNDING BONDS, SERIES 2010, AND THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-99 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-100](#)

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 COMMUNITY DEVELOPMENT DEPARTMENT EXPENDED IN THE COMMUNITY DEVELOPMENT FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-100 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

COUNCIL RESOLUTION NO. [10-101](#)

A RESOLUTION ACCEPTING THE DONATION OF A PARCEL OF PROPERTY OWNED BY THE ESTATE OF VALERIE SCHONBERG, LOCATED IN THE SW ¼ OF THE SE ¼ OF SECTION 17, TOWNSHIP 3 NORTH, RANGE 7 WEST, SILVER BOW COUNTY MONTANA IN EXCHANGE FOR PROVIDING TO THE ESTATE OF VALERIE SCHONBERG A PARCEL OF PROPERTY OWNED BY THE CITY-COUNTY OF BUTTE-SILVER BOW KNOWN AS A PORTION OF LOT 1-C OF THE STRIZIC MINOR SUBDIVISION AS SHOWN ON PLATE 245A, LOCATED IN SECTION 17, TOWNSHIP 3 NORTH, RANGE 7 WEST SILVER-BOW COUNTY MONTANA, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Moodry and seconded by Commissioner Sheehy that Council Resolution No. 10-101 be placed on final reading and passed having been deemed read at length. The motion carried with a roll call vote of 8 yea and 0 nay.**

Commissioner Morgan questioned the vote taken on Communication No. 10-654 stating the count should show 8 votes and the count only reflected 7 votes, 4 yeas and 3 nays.

It was moved by Commissioner Moodry and seconded by Commissioner Morgan to have a reconsideration of the vote on Communication No. 10-654. The motion passed with a roll call vote of 7 yea and 1 nay.

Acting Chief Executive Palmer stated the substitute motion was to concur with the request of Communication 10-654 and place on file.

The motion carried with a roll call vote of 4 yeas, 4 nays and Acting Chief Executive Palmer breaking the tie with a yea vote.

Commissioner Moodry announced Commissioner Frasz has taken the Council appointment to the TIFID Board and all TIFID questions should be addressed to Commissioner Frasz.

ADJOURN

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

The meeting adjourned at 8:29 p.m.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER