

**MINUTES OF THE REGULAR MEETING OF THE
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
FOR JUNE 15, 2016**

The Regular Meeting of the Council of Commissioners was called to order Wednesday, June 15, 2016, in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by the Chief Executive, Matt Vincent.

ROLL CALL

Commissioner Morgan	<i>Present</i>	Commissioner Shaw	<i>Present</i>
Commissioner Palmer	<i>Present</i>	Commissioner McDonough	<i>Absent</i>
Commissioner Andersen	<i>Present</i>	Commissioner Henderson	<i>Present</i>
Commissioner Walker	<i>Present</i>	Commissioner Fisher	<i>Present</i>
Commissioner Foley	<i>Present</i>	Commissioner Perdue-Dolan	<i>Present</i>
Commissioner Ralph	<i>Present</i>	Commissioner Sorich	<i>Present</i>

STAFF PRESENT

Eileen Joyce, Butte-Silver Bow County Attorney
Laura Sargent, Deputy Clerk & Recorder
Tracy Watt, Council Secretary

PRAYER AND PLEDGE

Commissioner Henderson said the prayer and led pledge.

PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA

R. Edward Banderob, 2601 Grand Ave., Butte, Montana, stated the following:

- Regarding Section 3, Item 2, Resolution No. 16-28, Greeley neighborhood storm water – I support it. Thank you Karen Byrnes.

Maria Pochervina, Director, Butte Chamber of Commerce, stated the following:

- In support of the Copper King project.
- I have met with Rex and Matt on their plans for the hotel. I feel they are informed, although they don't have hotel experience, they do have business experience.
- They have the goal of bringing this facility into the 21st Century.
- They are aware of the reputation of this facility.
- I believe these developers have vision, energy, and enthusiasm, and their financing package is in place to complete the project to the specifications needed for Butte again to compete in the meeting market, as we have in the past.
- Butte has other meeting facilities, but there is something about having a facility in town. Close proximity to our overflow facilities, easy access to I-90 and I-15. The Copper King



is our Butte Convention Hotel with abundant space to accommodate the needs of a variety of events.

- When the community relies on empty spaces in the mall for large events when the Civic Center is full, there seems to be a need.
- We have other smaller locations for events, but Montana groups still want meetings, meals and guest rooms under one roof.
- Fairmont has doubled their space, which makes them a real player in the Professional Association Meeting Market. But Fairmont is still the perfect location for the Corporate Incentive Market, reunions, and weddings.
- There does exist a need for another Conference Hotel in Butte for events, banquets, fund raisers, weddings, after funerals, conventions, trainings, continuing education, along with the Association Market where there is a need for exhibit space, meeting rooms and banquet facilities.
- The outsourcing or leasing out of the food and beverage takes this part of the staffing off the plate of the management team at the hotel; however, their plan of having a restaurant that will be a stand-alone entity will truly benefit the entire facility.
- The owners want a first-class establishment and have ties to Butte.
- Great management team.

Dan O’Neill, 305 West Mercury, Butte, Montana, stated the following:

- Communication No. 16-280 – Copper King. I am against giving assistance for that project due to fact it will produce income.
- Developers have received over \$800,000 in grants from the City for apartments on Montana Street.
- Whittier is having a sprinkler system put in right now. There was no public announcement or bid process for that.
- City needs to step back.
- Copper King is basically getting a tax pre-fund. Other local hotels are not getting a tax refund.
- Communication No. 16-281 – my family and I had meeting. No one was contacted. Our family is not in position to make a selling decision. There was no agreement in place for our property to be sold.
- It is a burden to have city personnel represent our family in the paper regarding our intent with property.
- Suggest the City look at similar properties – maybe at the corner of Montana and Front, which is publicly owned.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JUNE 1, 2016

It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a unanimous verbal vote, to approve the minutes of the Regular meeting of June 1, 2016.



ITEMS NOT ADDRESSED ON THE AGENDA

Emergency Suspension of the Rules to allow Communication No. 16-287 to be added to the agenda.

It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a roll call vote of 11 yea and 0 nay, to suspend the rules in accordance with the provisions of Subsection 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 Communication No. 16-287 to be added to the Agenda of the June 15, 2016 Regular Meeting of the Council.

Emergency Suspension of the Rules to allow Communication No. 16-293 to be added to the agenda.

It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a roll call vote of 11 yea and 0 nay, to suspend the rules in accordance with the provisions of Subsection 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 Communication No. 16-293 to be added to the Agenda of the June 15, 2016 Regular Meeting of the Council.

CHIEF EXECUTIVE REPORT

None.

SECTION 1 CONSENT AGENDA

- A.
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. ECONOMIC DEVELOPMENT COMMITTEE MEETING REPORT
 - 3. FINANCE & BUDGET COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT
 - 5. JUDICIARY COMMITTEE MEETING REPORT

- B. COMMUNICATIONS

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

Commissioner Palmer segregated Item #16, Communication No. 16-263.

It was then moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed with a unanimous verbal vote, to approve the Consent Agenda, Section A, Items 1 through 5, and Section B, Items 1 through 37, with the exception of Item #16, Communication No. 16-263.



Segregation – Communication No. 16-263

Lee Whitney, St. Mary’s Neighborhoods Reunion Committee, requesting Council of Commissioners authorize access to Butte-Silver Bow Property for installation of interpretive signage, mainly along the BA&P Walking Trail. [Map. Proposed Locations.](#)

Commissioner Palmer stated the following:

- Ms. Whitney called and asked me to segregate this.
- The Recommendation was to Hold in the Committee of the Whole and Refer to the Parks & Recreation Board, but they’re in a time crunch.

Lee Whitney, 3151 Quincy, Butte, Montana stated the following:

- We have already met with J.P. Gallagher with Parks & Recreation. We are working with him and Jon Sesso to determine location of signs.
- Just want Council to approve signage on Butte-Silver Bow property keeping in mind we are working with Parks & Recreation to make sure locations of signs are appropriate.
- If we can just go forward with an approval from this Council, then we can get approval hopefully from Parks & Recreation on Tuesday.
- We need to order our signage based on our schedule and know that we have Council approval to do that.

It was moved by Commissioner Palmer, seconded by Commissioner Andersen, to Concur with Communication No. 16-263 and Place on File.

Commissioner Morgan stated the following:

- J.P., are you ok with this?
- I hate to bypass a Board before they actually get to say their piece about it.

J.P. Gallagher, Director of Butte-Silver Bow Parks & Recreation Department, stated the following:

- Talked with the St. Mary’s group and feel confident with what they are asking us to do, but want to take to Parks & Recreation board on Tuesday to get their concurrence.
- Want to make sure we place signage in appropriate places.

Commissioner Palmer AMENDED his motion, seconded by Commissioner Morgan, and passed by a unanimous verbal vote, to Concur with Communication No. 16-263, contingent upon concurrence of the Parks & Recreation board on Tuesday, and Place on File.



SECTION 2 COMMUNICATIONS TO BE READ AND ACTED UPON

1. [16-280](#) Karen Byrnes, Director, Butte-Silver Bow Community Development Department, requesting Council of Commissioners concur with and authorize allocation of \$200,000 from the Hard Rock Development Assistance Program to 3D Properties, LLC to assist with development expenses related to the renovation of the Copper King Inn. [Proposal](#).

Danette L. Gleason, Director, Butte-Silver Bow Finance and Budget Department, stated the following:

- My part is to explain the Project Development Assistance Program. E-mailed the whole program and structure. Same type of program and funds granted for the Fairfield Hotel.
- Funds were released in early 2000 when the mine shut down, and again in 2003. \$1 million was granted back to the mine to re-open and re-employ 300 people.
- Money has gone to road projects, funds and grants to road improvements by Three Bears.
- When money allocated back to Butte-Silver Bow, MCA allocates how we can use funds. Talks about promoting diversification and development of the economic base through existing business retention or expansion or to assist new businesses.
- Kristen Rosa handed out sheet regarding “availability of funds.” We have \$1.4 million in that account right now. But we’ve already committed \$1 million to Bert Mooney Airport. So available tonight is \$401,013.

Commissioner Andersen stated the following:

- \$1.41 million left in funds, so with tonight’s expenditures there’d be \$1,013 left?

Director Gleason stated the following:

- There are cash investments of \$1.4 million. We’ve already committed \$1 million for the airport. That’ll be distributed sometime in July or August.
- Remember, these programs are all fully reimbursable programs. They have to spend the money, and then we reimburse them. That allows us to invest those funds.
- What we have available tonight is the \$401,013. So part of what you stated was correct. If you were to grant all \$400,000 tonight there would be \$1,013 left in the account.
- Water utility division, probably four years ago, was allocated \$1.2 million in a loan. They’ve been paying over that period of time, money back into this fund. Anticipate sometime during next year they’ll make some payments back into the account. Possibly by year-end they might make a payment. It just depends on their cash flow situation.

Kristen Rosa, Administrator, Tax Increment Financing Industrial District (TIFID), stated the following:

- From economic development standpoint, we strongly encourage this investment and development.
- Investors Matt Nistler and Rex Leipheimer are here if there are any questions.



Commissioner Sorich stated the following:

- Great project, but have questions.
- In the proposal it says Hard Rock assistance in this program is not lucrative enough to warrant development of this nature. Why not?

Mr. Leipheimer stated the following:

- Copper King requires extensive amount of remodel, updating of furniture, fixtures and equipment.
- Failure in my opinion has been lack of reinvestment in property over last 36 years. In hotel industry, generally remodel completely every 8-10 years.

Commissioner Fisher stated the following:

- I ask Mr. Nistler to give us a little input as to why this is a good investment.

Mr. Nistler stated the following:

- This project is going to bring 98 new jobs to Butte. State of the art event space. Will allow TIFID fund to grow. Blighted property brought up to first class facility.
- Hard Rock funds are not tax payer dollars. Money came from mine to offset impact has on community when mine closes.
- Honestly, it's a shame funds have set idle for 15 years. Millions of dollars have been sitting in account when could have grown economy.
- Tax abatement is another big point. Right now, Copper King is sitting on the tax rolls at zero dollars. Even with your vote for the Tax Abatement, that property will come back onto the tax rolls at \$28,000 a year, and increase 20% every year for five years until it becomes stabilized at an estimated \$122,850 per year that will come back into Butte-Silver Bow's tax collection.
- What we'll do differently – working since November 2015. Hired and paid for a comprehensive study showing Copper King is a necessity to Butte. Karen Byrnes has a copy of the 684-page study. Shows that the community needs another hotel.
- We engaged some architects. We've updated floor plans and modernized with a Montana feel. Hired a specialized hotel design group.
- Contracted with a professional hotel management company with 25 years experience.
- Your Hard Rock money is being put to the highest and best use.
- First class, high-end restaurant will be a cornerstone of the property.
- Event space really needed in community and will bring in dollars to Butte.
- Goes hand in hand with airport expansion.
- Revitalization of South Harrison Avenue will be a win-win for the Airport and the community as a whole.
- This project fits perfectly into both the Hard Rock Trust and the Tax Abatement Program guidelines. It checks all boxes for what these programs were designed to be used for.



- It's growing the economy, creating 98 new jobs, increasing the tax base, along with creating event space second to none.

Commissioner Andersen stated the following:

- I do have some concerns. You worked on a project awhile ago that was picketed for not using in-town labor.
- When you ask this community to dole out money, with just a little bit left, I have some concerns.

Mr. Nistler stated the following:

- Not an issue anymore.
- All construction being done by Butte-Silver Bow folks now. Not an issue anymore.

Commissioner Andersen stated the following:

- "Highest and best use" you mentioned a couple of times.
- Is this honestly the best use we have for this money when it's such a limited amount and there are so many other projects out there? Not entirely sold on it.

Mr. Nistler stated the following:

- The mine hires 300. We're hiring 98 people. That hasn't happened in the last two decades.

Commissioner Shaw stated the following:

- Anybody can apply for Hard Rock money. It's for new construction or renovation. Not tax payer dollars.
- In the meeting last Thursday, Mr. Nistler brought up a subject that is really compelling. In the hospitality industry, you almost have to, every 8-10 years, either rehab or flip. Selling a property is kind of the norm.
- In 8-10 years, are you going to flip the hotel? Because if we gave you \$200,000, that would not be very nice.

Mr. Nistler stated the following:

- Not our intention. But if we did, event space and jobs would still exist. The space will always be available. It will not get converted to anything later. It is not our intent.
- In our pro forms we have a budget line item for capital reserves. We intend to keep this hotel in the fashion it will be when it opens in 2017, not just bleed it all the way to the bottom like it had been for the last 36 years.



Commissioner Perdue-Dolan stated the following:

- Thank you Rex and Mr. Nistler for being here. Applaud you for taking on this project.
- Received calls today regarding the \$200,000. Would it matter if you didn't get?

Mr. Nistler stated the following:

- We have been working with lending institutions.
- Copper King name has a bad stigma. Original developer and architect on this project, Dan Cook, felt same way. Iconic name in state of Montana, though.
- From a marketing perspective, that's wonderful. Bad from financing standpoint though because all the bankers have been involved with the Copper King at one time or another and they've all lost money.
- Has a stigma. It's a distressed, blighted property. Getting financing for project has been nightmare.
- Rex and I are financially stable and have the ability to bring big projects to the marketplace.
- Huge commitment. Serious amount of money into property with questionable past. We need every single dollar we can get to make this happen. We need this \$200,000 and a heck of a lot more.
- When we originally came to Matt Vincent and Karen Byrnes and Jon Sesso back in October when we put property under contract, at that point in time the Hard Rock fund was more flush than it is today. Karen Byrnes represented to us we'd be able to acquire 10% of our costs for project in Hard Rock dollars. We counted on that, but we didn't get to the table with our plan. We didn't know there were other projects in the works. So we ended up behind the airport and alongside this other project.
- We fully support these other projects. This is what this fund is for. If we had been earlier, we would be on the record for \$800,000 – that's what we put in for, but we're being recommended for \$200,000.
- So to answer your question, we need the money, and we're far short of our objective with that money.

Commissioner Perdue-Dolan stated the following:

- Back when we were discussing giving \$68,000 to Fairfield Inn for demolition costs, small business owners upset because in grant form, not loan that could be paid back.
- How would you respond to them if you have \$200,000 in your pocket for this wonderful plan and now the funds are down to some \$1,000? What would you say to them here in Butte-Silver Bow?

Mr. Nistler stated the following:

- Sympathize with business people struggling to succeed.
- Difficult for us, too. We are investing a lot in Butte that should supplement those very businesses you are talking about.



- I feel very strongly in Butte. We are proud. We believe in Butte. We're bullish. Believe strongly this will be a successful project.

Commissioner Perdue-Dolan stated the following:

- Job creation – wages for 98 jobs?

Mr. Nistler stated the following:

- Turned over management side of this to professionals.
- Can't answer.

Commissioner Palmer stated the following:

- Thank you. Think it's great.
- Some smaller businesses not able to bid on some of the projects out there.
- Please give Butte businesses a chance to bid on this project.

Mr. Nistler stated the following:

- We'd love to. Our door is open and thanks for the kind words.

Commissioner Sorich stated the following:

- I think this project fits right into the criteria for what this money is to be used for.
- It's an \$8 million project, it was a blighted building, we're trying to clean up Butte, Montana.
- I believe we've got to support this project any way we can.

Commissioner Foley stated the following:

- Thank you for being here tonight, and for the other great projects you've done in Butte.
- Commissioner Perdue-Dolan's questions should be answered by council, not you. You are coming in as a businessman, and these are economic development resources.
- Remind commissioners that building was deemed as possible homeless shelter.
- Hard Rock money – that's what it's there for. Know businesses will say that's not fair. But that's what it's for.
- Support and commend the work you are doing.

It was moved by Commissioner Foley, seconded by Commissioner Morgan, and passed by a unanimous verbal vote, to approve Communication No. 16-280 and Place on File. Commissioner Walker recused himself due to previous relationship and dealings with the developers.



Commissioner Fisher stated the following:

- I think it's a great project and hope all will support.

Chief Executive Vincent stated the following:

- Thank you guys for your belief in Butte.
- I invite everyone to take a close look at the artist's rendering and compare to what's there now.
- We are putting \$13 million into the airport.
- I think we're about to make a good decision here and a good investment.

Commissioner Morgan stated the following:

- Matt and Rex, thanks.
- It wasn't too long ago you were here to talk about a subdivision in my district that was very contentious, and we worked through it. Low and behold all houses sold and that area turned out nice.
- So my support of this project is based on that. You did a nice job on those houses. You worked with residents. You have my support 100%.

2. [16-281](#) Karen Byrnes, Director, Butte-Silver Bow Community Development Department, requesting Council of Commissioners concur with and authorize allocation of \$200,000 from the Hard Rock Development Assistance Program to White-Leasure Development Company to assist with infrastructure expenses related to a major retail development. [Proposal](#).

Director Gleason stated the following:

- What I failed to mention earlier – these funds are available to businesses outside the URA district and the TIFID. Try to promote other areas and give other economic development opportunities to businesses outside these areas.
- This money has been available for well over 15 years. Not a new program to the community.

Ms. Rosa stated the following:

- Fully support this project. Great corner in Butte that is currently under utilized.
- As Danette mentions, this is not in the TIFID or URA districts – can't use this money there. But seeing development outside of those districts, also. This is a very large retail project.
- Larry Leasure and Valerie McCollum are here to represent that project.

Commissioner Henderson stated the following:

- Thank you for having interest in Butte.



- Problems with this proposal. We just had a family member say this property is not for sale. I'm confused. Don't know how we can talk about it before that deal is done.
- Also, before we have a firm lessee for the supermarket, that contract should be signed before we go further and approve any money.

Director Gleason stated the following:

- We knew there were some missing pieces. There is a contingency – we will only hold funds for six months. And again, this is reimbursable. They have to spend it before we will reimburse. There are a lot of agreements to get in place.
- The tax abatement, as well as the Hard Rock funds, make the project go.
- We agreed to bring forward. Feel it's a viable project. But there is a contingency – will not tie these funds up forever. If project does not move forward in six months, funds would be released.

Commissioner Henderson stated the following:

- Family said they don't want to sell property, so why are we discussing?

Director Gleason stated the following:

- That would be a question for the developer.
- As a committee, we understood there were pieces that had to be finalized.
- They communicated to us they needed to have the tax abatement in place, and some of the Hard Rock funds in place to finish the development contract. But everything had to start within six months.

Commissioner Henderson stated the following:

- We have \$201,013, but now it'll be tied up for six months, and this is the best six months that someone else might be assisted, but we're tying this up.
- If property not for sale, why are we holding up?

Director Gleason stated the following:

- I think it's time to let the developer talk.
- If I could invest \$200,000 and get \$20 million back, I would do it any day.

Larry Leasure, CEO and Chairman, White-Leasure Development Company, stated the following:

- We are a 45-year old company deals in shopping centers throughout the eight Western states. Did Shopko stores. Been looking at all the markets.
- With Butte, as you know, we have a very strategic location, problem is size of market.
- Over last three years, we've spent a substantial amount of time in your community.
- We do have three major retailers interested in your community and have discussed how much is leaving the trade area to Helena, Bozeman and/or Missoula.



- Attempting to get a supermarket anchor. Not the only site we've been looking at. We have been under contract with that property for year and a half.
- \$21 million project. Without your support, it doesn't make sense.
- In September, with project not working economically, we started to visit with community and staff to look at options public/private partnership.
- Today, we are not under contract with the O'Neill family.
- We are hopeful that if we can show our tenants that it does make financial sense, then we'll deal with the real estate.
- Without some outside help, this is not going to happen.
- Issue of six months – this would give us time to deal with the real estate for the major retailers. Not the only piece of real estate in Butte that would handle this project.

Commissioner Henderson stated the following:

- This is the first I've heard about this project. We don't have any proposal from you. What it looks like. A grocery store. A mall. We don't know enough about it.

Mr. Leasure stated the following:

- Did submit site plans. Anchored by a 60,000 foot supermarket. Three tenants.
- We submitted an extensive financial breakdown as part of business plan.
- Major expense is offsite – infrastructure in excess of \$2 million of the \$21 million. That's where we're hoping we could get some support with the \$200,000 that we are requesting for your consideration.

Commissioner Henderson stated the following:

- None of this \$200,000 would be spent until the project was with a contracted deed plus a lessee signed?

Mr. Leasure stated the following:

- Definitely. So we can go back to retailers saying this community would like to see some additional development.
- Granted, it's not 10% of \$21 million, we're not requesting that. But we would like to say there is some interest from the community.

Commissioner Morgan stated the following:

- Thank you for presenting project.
- Googled your firm. Project is listed on your Web site, and there is a site map there so I could see what you are looking at doing.
- I support project, but problem is that family doesn't want to sell.
- Don't want to award money if O'Neills are not going to sell because then we are taking money from other projects that could be put to use somewhere else.



Mr. Leasure stated the following:

- Don't want to tie up your money.
- We spent three years working on this in your community.
- We haven't been out there publically because of the tenant situation and they are obviously not disclosed. On confidential basis until we get commitments.
- There has been and will be ongoing dialog with the O'Neill family.

Commissioner Morgan stated the following:

- Stipulation six months – is that enough or too much?

Mr. Leasure stated the following:

- Major elements are with the tenants.
- Believe we can get that done on the real estate. Number of other sites. It's all about the dollars. Two or three other locations. We're not going to go away. Our intent is to make it work – to bring that retail to your community. We think this is the best site.

Commissioner Perdue-Dolan stated the following:

- Thank you for intent to help our community with your investment.
- A lot of our reservations revolve around the questions circulating with regard to the O'Neill family.
- Because you've mentioned there may be alternative plans for locations, for sake of securing funds, can you tell us where would Plan B be?

Mr. Leasure stated the following:

- Unfortunately, no. Confidential agreements.
- But we've done 100 shopping centers. Other sites are compatible, commercial and will work for these tenants.

Commissioner Sorich stated the following:

- Peppered with inquisitions from other people.
- In the event you do get the land, financing, whatever – when would you be looking to start construction?

Mr. Leasure stated the following:

- We submitted a flow chart in our material presented to the Committee. We would be moving to start construction in the spring, when the snow is gone. And we'd be capable of doing that.



Commissioner Shaw stated the following:

- Thank you Larry and Valerie.
- Since I saw you Thursday I have been inundated with questions.
- I hope you can see our position here. We are public entity. Hard to work with a group that isn't able to tell us who the businesses are.
- It's a prime location.
- Hastings is closing. We've lost the Buttrey's store, the Smith's Store. We've lost IGA. We have a couple of other anchor supermarkets that have come in.
- 198 jobs. We have a pie. Only so many pieces. Concerns me – Retail, Supermarket.
- Would like to see more middle management, industrial that bring in different types of jobs. Instead of picking off people from other companies. It bothers me. I think about the value added perception here. Could be another big store. But we only have so many people in Butte.
- To tie up \$200,000 for six months, I hate to think we might miss another opportunity that has a more value-added feature to it.

Mr. Leasure stated the following:

- Size of market and stores that are closing. Two of them are closing all over the country

Chief Executive Vincent stated the following:

- Hastings is not closing. They filed bankruptcy. They are not closing their Montana stores.

Mr. Leasure stated the following:

- National tenants doing the same thing. Consolidating. A lot of changes.
- These two particular supermarkets – they are not are going to be dealing with the small markets. Wal-Mart is a competitor for both of these.
- But does provide an additional opportunity for shopping.
- 160-195 new employees. Good jobs. One potentially employee-owned.
- If you don't bring in larger stores, then you will create even more people leaving your market.
- We have second phase I wasn't going to talk about today where we do have additional land under contract, and that tenant would bring more people into here vs. leaving.
- Retail's tough, no question.

Chief Executive Vincent stated the following:

- We have no additional projects that we are aware of coming to ask for this assistance.
- Reality is we don't have any sitting in the wings.



Commissioner Palmer stated the following:

- Don't want to chase anybody out of town who's willing to commit large amounts of dollars on an economic development project.
- A little bit at odds on how we go about doing this when we don't have anything firm before us tonight.
- I think by committing \$200,000 to a project that you would bring forward within the next three months, or at least give us an update on it, it would show that we are committed.

It was moved by Commissioner Palmer, seconded by Commissioner Morgan, to commit \$200,000 to a project brought forth by White-Leasure Development with a condition that they give an update in three months.

Commissioner Ralph stated the following:

- Thought it'd be prudent to make sure that wouldn't create a problem for White-Leasure.

Mr. Leasure stated the following:

- We certainly would hope you could consider six months, with update in three that you can terminate in 90 days so we could get through the whole process.
- In other words, you can terminate us in 90 days if you're not satisfied that we've made the necessary progress to get it done.

An Amended Motion was made by Commissioner Palmer, seconded by Commissioner Morgan, to commit \$200,000 to a project brought forth by White-Leasure Development within six months, with a condition that they give an update in 90 days, and Butte-Silver Bow can terminate at that time if not satisfied.

Commissioner Fisher stated the following:

- \$22 million project is a lot of money. People don't come to Butte offering this kind of stuff every day. And we're worried about the little things. Not our worry who he buys the property from.
- The man's here asking for \$200,000, not even 1% of what he wants to do. I think we're kicking things around here.
- When people come to town and want to do the leg work, and here we're trying to tie him up so he can't get things done.
- Danette said we are going to have \$150,000 coming back in a few months. They owe us \$600,000 from the water company. The fund is not going to be broke.
- I'd like to see this proposal passed as written. It's \$22 million.
- Our mall is hurting. Competition isn't a bad thing. This gentleman knows his business.
- He's offering a good deal and we ought to take a real hard look at it.



Commissioner Morgan stated the following:

- Am I at a different meeting?
- We basically did just approve that with stipulation that he give us a report back in three months.

Commissioner Andersen stated the following:

- Not to rain on parade, but we are willing to donate to a good cause.
- I have a hard time answering questions when I don't know the facts.
- Facts I do know is one grocery store recently closed, IGA. Don't see room for another one in the market without displacing one of the stores already here. Then we're really not gaining anything. Doesn't make sense to me. Attention is always in the details.
- I can't support this tonight. With lack of information I cannot in good faith vote for this.

Commissioner Foley stated the following:

- I agree with Commissioner Fisher tonight.
- Competition is good.
- This is \$200,000 to show good faith to a company that wants to invest.
- We can't control what business stays open.
- Pizza is booming.
- The same argument was used when Three Bears came into this community – it's going to shut down the other grocery stores.
- If the project doesn't take place, the money is not going to be lost. The money is still there. I know it's going to be tied up for a period of time.

A Substitute Motion was made by Commissioner Foley, seconded by Commissioner Fisher, to approve Communication No. 16-281, as written and requested by the Committee.

Commissioner Palmer stated the following:

- I think I am getting lambasted here for being against this project. I am in favor of this project. I don't want to see anyone leaving this town that's offering a \$21 million project.
- We just don't have enough information. I'd just like an update in three months. It's exactly the same motion.

Commissioner Ralph called for the question.

Chief Executive Vincent stated the following:

- Before you vote, I'd like to share some additional information.
- Doing some of my own due diligence, I reached out to Mayor Engan in Missoula where White-Leasure is doing some business. I also reached out to the Mayor in Boise where White-Leasure Development is based. Both gave him positive recommendations that we have nothing to worry about moving forward.



Chief Executive Vincent called for Roll Call Vote on the Substitute Motion. Vote on the Substitute Motion failed. 4 yea, 7 nay. Commissioners Andersen, Morgan, Palmer, Perdue-Dolan, Shaw, Sorich and Walker voted nay.

Chief Executive Vincent called for Roll Call Vote on the previous Amended Motion. Vote on the Amended Motion passed. 8 yea, 3 nay. Commissioners Andersen, Perdue-Dolan and Shaw voted nay.

Emergency Suspension Communication No. 16-287

Leslie Clark, Director, Butte-Silver Bow Human Resources Department, requesting Council of Commissioners authorize a presentation on June 22, 2016 from Mike Young regarding a rate increase on health insurance. [Emergency Suspension](#).

Director Clark stated the following:

- We just finished discussions with Mike Young, who is consultant on our Health Insurance plan.
- We are requesting you're approval for a presentation so all can be informed of health insurance changes and premiums before they take effect on July 1st.

It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a unanimous verbal vote, to Concur with Communication No. 16-287 and schedule presentation for June 22, 2016.

Commissioner Andersen stated the following:

- Will the presentation include anything about the clinic? I questions its usefulness, and time/wait period.

Director Clark stated the following:

- No, only changes in premium and some stop loss information.
- We are meeting with Marilyn Bartlett, State of Montana, on care here and what we can expect as far as improvements, as well as some of their contracts not being renewed by the State of Montana.

Emergency Suspension Communication No. 16-293

Matt Moore, Metro Operations Manager, Butte-Silver Bow Public Works Department, requesting Council of Commissioners authorize time on July 6, 2016 Agenda to conduct a bid opening regarding the Butte-Silver Bow Montana Tech Wastewater Gravity Sewer Project. [Emergency Suspension](#).



Mr. Moore stated the following:

- Mistakenly thought this was scheduled for July 20, but that is another bid opening we already have scheduled for that date.
- Public notice is in place. Three notices to give people more time, so hopefully we'll have more bidders.

It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a unanimous verbal vote, to Concur with Communication No. 16-293 and schedule bid opening on July 6, 2016.

SECTION 3 ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL BILL NO. [16-11](#)
ORDINANCE NO. [16-11](#)

AN ORDINANCE AMENDING ORDINANCE 204, Section 4 and CHAPTER 10.24 , ENTITLED “TRAFFIC CONTROL DEVICES” AND CHAPTER 10.32 ENTITLED “STOP SIGNS”, OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) SPECIFICALLY REPEALING SECTION 10.24.160(14) DELETING THE TRAFFIC CONTROL SIGNAL LOCATED AT THE INTERSECTION OF GRANITE STREET AND MAIN STREET; AND BY AMENDING SECTION 10.32.010 ESTABLISHING STOP SIGNS ON GRANITE STREET ENTERING THE EAST AND WEST CORNERS AT THE INTERSECTION OF GRANITE STREET AND MAIN STREET; AND ESTABLISHING STOP SIGNS ON MAIN STREET ENTERING THE NORTH AND SOUTH CORNERS AT THE INTERSECTION OF MAIN STREET AND GRANITE STREET AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. [16-28](#)

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A COMMUNITY DEVELOPMENT BLOCK GRANT FOR THE PURPOSE OF FINANCIAL ASSISTANCE FOR GREELEY NEIGHBORHOOD STROM WATER IMPROVEMENTS IN ACCORDANCE WITH THE PROCEDURES OF THE BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION 4 ORDINANCES AND RESOLUTIONS FINAL READING

1. COUNCIL BILL NO. [16-2](#)
ORDINANCE NO. [16-2](#)

AN ORDINANCE ESTABLISHING A NEW CHAPTER OF THE BUTTE-SILVER BOW MUNICIPAL CODE (BSB-MC) TO BE NUMBERED 8.02 AND TO BE ENTITLED “VACANT BUILDINGS”, ESTABLISHING REGISTRATION PROCEDURES,



ESTABLISHING PROVISIONS FOR ENFORCEMENT; PROVIDING FOR A PENALTY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. [Redline](#).

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 16-2, Ordinance No. 16-2 be placed on final reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 9 yea and 2 nay, with Commissioners Fisher and Perdue-Dolan voting nay.

2. COUNCIL BILL NO. [16-5](#)
ORDINANCE NO. [16-5](#)

AN ORDINANCE AMENDING ORDINANCE 204, Section 4 and CHAPTER 10.24 , ENTITLED “TRAFFIC CONTROL DEVICES” AND CHAPTER 10.32 ENTITLED “STOP SIGNS”, OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) SPECIFICALLY REPEALING SECTION 10.24.160(4) DELETING THE TRAFFIC CONTROL SIGNAL LOCATED AT THE INTERSECTION OF BROADWAY STREET AND WYOMING STREET; AND BY AMENDING SECTION 10.32.010 ESTABLISHING STOP SIGNS ON BROADWAY STREET ENTERING THE EAST AND WEST CORNERS AT THE INTERSECTION OF BROADWAY STREET AND WYOMING STREET; AND ESTABLISHING STOP SIGNS ON WYOMING STREET ENTERING THE NORTH AND SOUTH CORNERS AT THE INTERSECTION OF BROADWAY STREET AND WYOMING STREET AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. [Redline](#).

It was moved by Commissioner Shaw and seconded by Commissioner Palmer that Council Bill No. 16-5, Ordinance No. 16-5 be placed on final reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 10 yea and 1 nay, with Commissioner Morgan voting nay.

3. COUNCIL BILL NO. [16-9](#)
ORDINANCE NO. [16-9](#)

AN ORDINANCE AMENDING SECTION 17.060.030 OF BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) WHICH SECTION ADOPTED THE ZONING MAP OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR A CHANGE TO THE OFFICIAL ZONING DISTRICT MAP BY REZONING APPROXIMATELY 6 ACRES FROM R-1S (ONE FAMILY SUBURBAN) TO C-2 (COMMUNITY COMMERCIAL), COMMONLY LOCATED AT 20,26,30 BASIN CREEK ROAD; AND TO REZONE APPROXIMATELY 108 ACRES FROM R-1S (ONE FAMILY SUBURBAN) TO M-1 (LIGHT INDUSTRIAL ZONE), COMMONLY LOCATED AT SOUTH OF THE ABOVE NOTED ADDRESS, NORTH OF THE GUN CLUB ROAD AND WEST OF HIGHWAY 2; INCLUDING BUT NOT LIMITED TO THE PROPERTIES KNOWN AS ABC MINI STORAGE, BASIN CREEK MOBILE HOMES, FEDEX GROUND, BUTTE TRAP & SKEET CLUB, AND THE NORTHWESTERN ENERGY SUBSTATION; AND TO REZONE APPROXIMATELY 7 ACRES FROM C-2 (COMMUNITY COMMERCIAL) TO M-1 (LIGHT INDUSTRIAL ZONE), ON THOSE PROPERTIES NOTED ABOVE WHO ARE ADJACENT TO HIGHWAY 2; ALL LOCATED IN SECTION 8, TOWNSHIP 2 NORTH, RANGE 8 WEST, OF THE P.M.M. OF THE CITY



AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, PROVIDING FOR THE REPEAL OF ALL PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 16-9, Ordinance No. 16-9 be placed on final reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 11 yea and 0 nay.

4. COUNCIL BILL NO. [16-10](#)
ORDINANCE NO. [16-10](#)

AN ORDINANCE ESTABLISHING THE SOUTH BUTTE INDUSTRIAL TARGETED ECONOMIC DEVELOPMENT DISTRICT, CREATING THE SOUTH BUTTE INDUSTRIAL TARGETED ECONOMIC DEVELOPMENT DISTRICT AND ADOPTING THE SOUTH BUTTE INDUSTRIAL TARGETED ECONOMIC DEVELOPMENT DISTRICT PLAN WITH A TAX INCREMENT FINANCING PROGRAM PURSUANT TO TITLE 7, CHAPTER 15, PART 42 AND 43 OF THE MONTANA CODES ANNOTATED.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 16-10, Ordinance No. 16-10 be placed on final reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 11 yea and 0 nay.

5. COUNCIL RESOLUTION NO. [16-27](#)

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 RELATED TO AUDIT FINDING 15-6 IN BUTTE SILVER BOW'S JUNE 30, 2015 COMPREHENSIVE ANNUAL FINANCIAL REPORT, EFFECTIVELY RECORDING THE CIVIC CENTER BOX OFFICE BANK ACCOUNT IN THE GENERAL LEDGER, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 16-27 be placed on final reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 11 yea and 0 nay.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

R. Edward Banderob, 2601 Grand Ave., Butte, Montana, gave the following statement (and submitted via e-mail):

I have been absent from these Council meetings for the past few weeks waiting for a reply from the Montana Department of Justice relative to my questions:



“Does a City-County Attorney’s not being emphatic enough about lack of implementation of her interpretation (of the City-County Charter) constitute legitimate grounds for a (Citizen) complaint (against said City-County Attorney)?”

I have received my reply from Brant Light, Chief Prosecutor, Montana Attorney General’s Office, and I quote:

Dear Mr. Banderob, I have reviewed the documents you sent me in reference to the County Attorney and whether a possible complaint exists.

First, it’s very important that you understand that while the Attorney General does have supervisory control over county attorneys, it can only exercise that authority when the actions of the county attorney constitute a manifest abuse of discretion.

A county attorney is the legal advisor of the Board of County Commissioners and that often means the county attorney will be asked for a legal opinion or an interpretation of a statute or rule. After researching the matter the county attorney will then present that opinion to the commission and might even make a recommendation to the board in reference to his/her opinion.

However, it is left to the commission as to how they want to deal with that legal opinion.

The county attorney’s responsibility is to advise the commission of the law/statute/rule and the consequences they might face if they ignore the law/statute/rule.

Once the county attorney has so advised the commission they do not have a legal or ethical responsibility to sell the commission or further convince the commission that they must adopt or follow their legal advice.

The decision is left to the discretion of the county commissioners.

Therefore, I don’t see a valid complaint against the county attorney in the situation that you have outlined in the documents I received.

That is to say the Butte-Silver Bow City-County Attorney has properly advised this Council in her letter of April 28, 2015.

This Council has The Power, and The Duty –S to authorize community councils to advise the Council of Commissioners.

Furthermore it is this Council’s responsibility to determine the procedure by which you are going to fulfill that provision of the Butte-Silver Bow City-County Charter.



ADJOURN

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

The meeting adjourned at 9:20 p.m.

MATT VINCENT
CHIEF EXECUTIVE

ATTEST:

CLERK & RECORDER