

**MINUTES OF THE REGULAR MEETING OF THE  
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS  
FOR MARCH 19, 2014**

The Regular Meeting of the Council of Commissioners was called to order Wednesday, March 19, 2014, 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, *present*

Commissioner Shaw, *present*

Commissioner Palmer, *present*

Commissioner McDonough, *present*

Commissioner Andersen, *present*

Commissioner Henderson, *absent*

Commissioner Walker, *present*

Commissioner Fisher, *absent*

Commissioner Foley, *present*

Commissioner Moodry, *absent*

Commissioner Ralph, *present*

Commissioner Sorich, *absent*

**STAFF PRESENT**

Eileen Joyce, Butte-Silver Bow County Attorney  
Kareniesa Kohn, Council Secretary

**PRAYER**

Commissioner McDonough said the prayer.

**PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA**

None.

**APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF MARCH 5, 2014.**

*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 March 5, 2014.*

**ITEMS NOT ADDRESSED ON THE AGENDA**

None.

**CHIEF EXECUTIVE REPORT**

Chief Executive Vincent reported the following:

- ❖ There will be a budget meeting tomorrow at 4 pm at the Archives.



- ❖ All department heads have been invited, as well as the Finance & Budget Department and Chairman Shaw.
- ❖ The meeting was published.
- ❖ The Brincks and Deluxe building lots did not sell at the auction. The next step is a developer's packet.

**SECTION 1 BID OPENING  
COMMUNICATION NO. 14-97**

DAVE SCHULTZ, DIRECTOR, BUTTE-SILVER BOW PUBLIC WORKS, REQUESTING COUNCIL'S AUTHORIZATION TO HAVE A BID OPENING ON MARCH 19, 2014 FOR PHASE I OF THE HARRISON AVENUE WATER MAIN REPLACEMENT PROJECT.

Dave Schultz, Director, Butte-Silver Bow Public Works, opened the following bids:

Northwest Pipe Fittings	No Addendums	Total Bid: \$375,201.15
HD Supply Waterworks	1 Addendum - \$1,310.00	Total Bid: \$390,684.00

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to refer the bid to the Water Division and to report to Council with their recommendation.*

**SECTION 2 PUBLIC HEARING  
COMMUNICATION NO. 14-101**

STEPHANIE MARSHALL, PARKING DIRECTOR, BUTTE-SILVER BOW PARKING DEPARTMENT, REQUESTING COUNCIL'S AUTHORIZATION FOR IMMEDIATE BUDGETARY AUTHORIZATION TO PURCHASE NEW SOFTWARE AND EQUIPMENT FOR THE PARKING DEPARTMENT.

Stephanie Marshall, Parking Director, Butte-Silver Bow Parking Department, stated the following:

- Thanked Council for the opportunity to come before them.
- She has identified more issues since the last time she spoke before Council.
- There was a Parking Commission meeting today and they are pleased with Council's consideration of this option.

Commissioner Morgan asked if Ms. Marshall had checked with MIS to see if this would be a seamless transition. Ms. Marshall stated she has been working with MIS and they are as excited to have the old process replaced.



Commissioner Morgan asked if the public would be able to pay their tickets online. Ms. Marshall stated at some point they will be able to. She stated it could take a couple of months and she would also like to see an online portion for permit purchasing.

Chief Executive Vincent opened the public hearing. He called for proponents.

R. Edward Banderob, 2601 Grand Avenue, Butte, MT., stated the following:

- ❖ The public should be informed of the total number of tickets are issued per year.
- ❖ I am a proponent for the purchase of the system.
- ❖ Butte-Silver Bow has many non-criminal ordinances that are not being followed.
- ❖ The parking Department needs personnel and equipment to do their job.
- ❖ Maybe they could call in a stray dog or pothole, too.

Chief Executive Vincent called for any opponents. There were none. The public hearing was closed.

### **SECTION 3 CONSENT AGENDA**

- A.**
  - 1. COMMITTEE OF THE WHOLE MEETING REPORT
  - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
  - 3. JUDICIARY COMMITTEE MEETING REPORT
  - 4. PUBLIC WORKS COMMITTEE MEETING REPORT
  - 5. PERSONNEL COMMITTEE MEETING REPORT
  
- B. COMMUNICATIONS**

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

Commissioner Shaw segregated #11.

Commissioner Palmer segregated The Committee of the Whole Report, Section Nos. 17 and 19.

Commissioner McDonough segregated #31.

*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, except Item No. 1, Sections 17 and 19, and Section B, Items 1 through 35, except item nos. 11 and 31.*

#### **Segregation - #11, Communication No. 14-114**

**Reverend Brian Miller, Christ Church Anglican, requesting Council's authorization to consolidate property currently owned by the church and to deed a portion of the property while purchasing county-owned property.**



Commissioner Shaw stated she would like to cross-reference this communication with Communication No. 13-750 and change the recommendation to refer to the County Attorney's Office and hold in the Committee of the Whole.

*It was moved by Commissioner Shaw, seconded by Commissioner Andersen and passed by a unanimous verbal vote to refer Communication No. 14-114 to the County Attorney's Office to prepare a resolution and deed and hold in the Committee of the Whole.*

### **Segregation - #31, Communication No. 14-134**

**Brendan McDonough, Butte-Silver Bow Commissioner, District No. 8, requesting the fee waived regarding the Easter Egg Hunt sponsored by BS Café, Communication No. 14-111, and to have past fees refunded for the Easter Egg Hunt and the "The Pumpkin Patch".**

Commissioner McDonough stated he sent in a letter regarding the BS Café's sponsoring the Easter Egg Hunt and Pumpkin Patch. He stated they are a small business that pays the \$100 fee and they also pay for insurance and all the supplies for the events. He stated his letter addresses future fees and past fees to be refunded.

Commissioner Morgan stated he had helped Sandy with this many years ago and the fees were there because they are competing against private businesses. He stated if Council goes back and refunds her past fees, then many will come forward asking for past fees to be refunded. He also stated Council cannot pick and choose who they want to pay the fees or not pay the fees.

Commissioner McDonough stated that a wedding can expect to pay fees and the festivals are exempt from the fees. He stated Sandy would pay the fees if required but that she pays for insurance for the events. He also stated the fee-monies could go towards the events themselves.

Commissioner Morgan stated if Sandy feels this way, she could file for a 501 3c status to save the \$100 fee.

Commissioner Andersen stated the following:

- ❖ He tried to call Sandy but did not receive any return phone calls.
- ❖ The Easter Egg Hunt is a nice event for children.
- ❖ At her events, there are banners advertising the BS Café and advertisements in the plastic eggs collected by the children.
- ❖ This year they teamed up with a non-profit to have the fee waived.
- ❖ It could cause many problems to have their past fees refunded.
- ❖ The fees were put into place for a reason and Council needs to stand by that.

Commissioner Palmer stated going back past years to refund fees will upset the budget.

County Attorney Joyce stated Commissioner Palmer made a valid point. She stated it would be considered unanticipated expenditure and a public hearing would be needed. She also stated



refunding past fees would be problematic and this would best be dealt with in the future with fee waivers.

*It was moved by Commissioner McDonough, seconded by Commissioner Ralph and passed by a unanimous verbal vote in moving forward to consider fee waiver options if it seems to be in a grey area and place Communication No. 14-134 on file.*

**Segregation - Committee of the Whole Report, Section 17, Communication No. 14-98**

**Karen Byrnes, Director, Butte-Silver Bow Community Development Department, recommending to Council three options for the property located at 823 - 827 E Front Street, Butte, MT.**

Commissioner Palmer stated a previous motion had been made to have an auction for this property, which occurred today without any buyers. He asked what kind of criteria would be in the developer's packet and what would the price be set at.

Chief Executive Vincent stated the next step is a developer's packet will be drafted and then routed to the Land Sales Committee for review. He stated there would be specific requirements regarding zoning, what the price would be, and what the time frame will be. He also stated it could be possibly set at \$50,000 with a 30-day time frame.

Commissioner McDonough asked if there would be a setback from the current building. Chief Executive Vincent stated any of the proposals will have to adhere to the standards in place now.

Commissioner Morgan asked if it would be possible to offer it out for \$1.00 with a \$25,000 deposit. He stated this way any developer interested would need capital on hand to use. He stated they had seen multiple times people pay only the \$1.00 and then nothing can be done on financing for the property.

County Attorney Joyce stated the developer's packet is set up with a minimum price and the ordinance requires they ask for fair value of the property. She also stated the ordinance does require set criteria and she is not sure if they could structure the developer's packet without what the ordinance requires it to have.

Chief Executive Vincent asked how they offered the property for \$5,000 before. County Attorney Joyce stated fair value is not the same as market value and based on the condition of the buildings and what would have had to be done to them was considered in the previous price offered. She stated now the buildings are gone and they are vacant lots to be developed.

Commissioner Morgan stated the Greek building was offered for \$1.00 and asked if this situation was not similar. County Attorney Joyce stated if that was what was done, there had to have been some determination made regarding as how that constituted fair value.

Commissioner Palmer stated he remembered "best proposal" was what was asked for in the Greek building situation and Council then decided what the best proposal was.



Commissioner Morgan asked how is there ever a \$1.00 figured given. County Attorney Joyce stated it is not the appraised or fair market value given but the fair value as defined in the ordinance. She stated this has been an issue in district court before.

Commissioner McDonough asked how they came to the \$50,000 amount in the auction. County Attorney Joyce stated when the city-county sells property by auction, they are required to sell it at the appraised value.

Commissioner McDonough asked that be set in the record. He stated the media said Council arbitrarily set the price at \$50,000 and the public should know this is a state statute.

Chief Executive Vincent stated this was duly noted for the record.

Commissioner Walker asked why this could not be treated like a real-estate deal and have what we determine to be the set price. County Attorney Joyce stated it goes back to the language in the developer's packet and they had adopted an ordinance with specific criteria that sets forth on how a developer's sale proceeds.

Commissioner McDonough stated the area to be developed is small with all the setback standards and can't Planning or Zoning tell people ahead of time the size of a structure that can be built there.

Commissioner Palmer stated the developer's packet would explain it to those bidding as well as all the information they would need, including on how to file for a variance. He stated it would then be up to Council to decide on allowing the variance or not.

Chief Executive Vincent stated it would then have to go before the Zoning Board to approve it.

Commissioner Foley stated the following:

- ❖ The motion I made on this issue is to get money back on this property and to put the property back on the tax rolls.
- ❖ Council needs to follow through on this process.
- ❖ Let someone present it to us in an actual developer's packet.
- ❖ Council may not receive any developer's packets for this property.
- ❖ Council made a commitment to get money back on this property.
- ❖ Council should go with the fair value of the property.
- ❖ They might be concentrating on this because there have been hard feelings with this particular site.
- ❖ Council should let the process work.

Commissioner Walker asked if they had considered the adjacent land-owner purchasing this. Chief Executive Vincent stated he did not believe they solicited requests from adjacent landowners.



County Attorney Joyce stated a motion has already been passed on the route this needs to take and they couldn't solicit the adjacent landowners until the motion has been followed through.

Commissioner Andersen stated he agreed with Commissioner Foley. He stated a developers packet needed to be done and asked it to be extended to 45 days.

Chief Executive Vincent stated he would have a developer's packet draft completed within the next week.

Commissioner Andersen asked if the developer's packet would be approved by Council before released. Chief Executive Vincent stated yes.

*It was moved by Commissioner Palmer, seconded by Commissioner Morgan and passed by a unanimous verbal vote follow with the original motion and hold Communication No. 14- 98 in abeyance.*

**Segregation - Committee of the Whole Report, Section 19, Communication No. 14-101**

Commissioner Palmer stated the public hearing for this communication was held without opposition.

*It was moved by Commissioner Palmer, seconded by Commissioner McDonough and passed by a unanimous verbal vote to ask the County Attorney to draft a resolution allowing the budget authority up to \$40,000 to purchase the needed equipment and hold Communication No. 14-101 in abeyance.*

**SECTION 4 ORDINANCES AND RESOLUTIONS  
FINAL READING**

**1. COUNCIL BILL NO. 14-3  
ORDINANCE NO. 14-3**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 47 SECTION 6, AND TITLE 6 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "CARE, KEEPING AND SALE OF ANIMALS AND DOMESTIC FOWL", SPECIFICALLY AMENDING SECTION 6.12.060 ENTITLED "RAISING MICE OR RATS"; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 14-3, Ordinance No. 14-3 be placed on final reading and be passed, having been deemed read at length. The motion passed by a roll call vote of 8 yea and 0 nay.*

**2. COUNCIL BILL NO. 14-4  
ORDINANCE NO. 14-4**

AN ORDINANCE REPEALING CHAPTER 2.38 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "ANIMAL SHELTER BOARD" AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.



*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 14-4, Ordinance No. 14-4 be placed on final reading and be passed, having been deemed read at length. The motion passed by a roll call vote of 8 yea and 0 nay.*

**3. COUNCIL BILL NO. 14-5  
ORDINANCE NO. 14-5**

AN ORDINANCE AMENDING ORDINANCE NO. 09-14 AND TITLE 2, CHAPTER 2.88 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "ANIMAL SERVICES BOARD" AND SPECIFICALLY AMENDING SECTION 2.88.040 ENTITLED "FUNCTIONS POWERS AND DUTIES" AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 14-5, Ordinance No. 14-5 be placed on final reading and be passed, having been deemed read at length. The motion passed by a roll call vote of 8 yea and 0 nay.*

**PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

R. Edward Banderob, 2601 Grand Avenue, Butte, MT., stated the following:

- ❖ In regards to Communication No. 13-757.
- ❖ It is a request inviting the National Park Service to perform a special resource study.
- ❖ Does not want to come back in 7 months to make this comment again.

**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 8:27 p.m.

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**MATT VINCENT  
CHIEF EXECUTIVE**

**ATTEST:**

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**CLERK & RECORDER**

