

**MINUTES OF THE REGULAR MEETING OF THE
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
FOR JUNE 19, 2013**

The Regular Meeting of the Council of Commissioners was called to order Wednesday, June 19, 2013, 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, *present*

Commissioner Walker, *present*

Commissioner Fisher, *present*

Commissioner Foley, *present*

Commissioner Moodry, *present*

Commissioner Ralph, *present*

Commissioner Sorich, *present*

STAFF PRESENT

Eileen Joyce, Butte-Silver Bow County Attorney
Colleen Safratowich, Deputy Clerk & Recorder
Stephanie Marshall, Deputy Clerk & Recorder

PRAYER

Commissioner Henderson led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JUNE 5, 2013.

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 5, 2013.

ITEMS NOT ADDRESSED ON THE AGENDA

None.

CHIEF EXECUTIVE REPORT

Chief Executive Vincent reported the following:

- ❖ The replacement of the traffic light at Granite and Main Streets is on the Urban Route System and owned by the Department of Transportation. They have warranted the traffic light need not be there. Insurance monies will have to replace the light, if Butte-Silver Bow would like it replaced.

- ❖ A meeting with the Rocker Sewer Board occurred on Tuesday, June 18, 2013, and it was a consensus to move forward with the transition to dissolve the Rocker Sewer District.

Commissioner Henderson asked how long it would take to replace the traffic light. Chief Executive Vincent answered that he did not know but it would not be replaced by the time of the Folk Festival.

PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA

Chris Harris asked if he could comment on the Brinks Communication. Chief Executive Vincent explained that because it was not on the Consent Agenda, Mr. Harris would be made aware when he could comment on the communication.

SECTION 1 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. RULES 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 Foley segregated #44, Communication No. 13-470.

Commissioner Palmer segregated #17, Communication No. 13-442.

Commissioner Henderson segregated #54, Communication No. 13-480.

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 57, excluding nos. 17, 44, and 54.

SEGREGATION - #17, COMMUNICATION NO. 13-442

Karen Hassler, Butte-Silver Bow Public Works Department, requesting Council's authorization for the Chief Executive to sign a Memorandum of Understanding with Montana Tech regarding storm water education and outreach services.

Commissioner Palmer segregated this communication because he has a concerned the communication is asking for a budget authority on a budget that has not been approved. He asked this not be approved until the budget had passed Council.

It was moved by Commissioner Palmer, seconded by Commissioner Henderson and passed by a unanimous verbal vote to refer Communication No. 13-442 to the Finance & Budget Committee.

SEGREGATION - #44, COMMUNICATION NO. 13-470

Sheriff Ed Lester, Butte-Silver Bow Law Enforcement Department, requesting Council's authorization for the Chief Executive to sign an agreement with CCCS, Inc regarding the per diem rate to place youthful offenders at RYO.

Commissioner Foley segregated this to abstain on voting on this communication due to a conflict of interest.

It was moved by Commissioner Palmer, seconded by Commissioner Morgan and passed by a unanimous verbal vote to place Communication No. 13-470 on file.

SEGREGATION - #54, COMMUNICATION NO. 13-480

Jon Sesso, Director, Butte-Silver Bow Planning Board, requesting Council's approval to award a bid agreement to Zemljak Construction and for the Chief Executive to sign the agreement.

Commissioner Henderson segregated this communication to commend Mr. Sesso for going back to the approval of the construction contract on the Wyoming Street sewer replacement. Mr. Sesso was able to drop the bid price with the single bidder.

It was moved by Commissioner Henderson, seconded by Commissioner McDonough and passed by a unanimous verbal vote to place Communication No. 13-480 on file.

SECTION 2 COMMUNICATIONS TO BE READ AND ACTED UPON

13-432 Ed Randall, Community Enrichment/Animal Service Department, requesting a discussion by Council regarding three possible options for the Brinks and Deluxe Buildings.

Chief Executive Vincent asked Ed Randall to give a presentation on the communication.

Ed Randall, Community Enrichment/ Animal Service Department, stated the following:

- ❖ At the last Council meeting, an agreement could not happen because a letter regarding both buildings had not been submitted to Council.
- ❖ There has been a letter now submitted asking Council to choose between three options.
- ❖ He has met with Karen Byrnes and Dori Skrukrud and Ms. Skrukrud has developed a Developer's Packet which includes both buildings.
- ❖ Ms. Skrukrud has listed different resources as far as listing the Developer's Packet to different groups.
- ❖ Strongly encourage Mr. Hafer, in Billings, be contacted regarding the Developer's Packet

Commissioner Fisher asked if in the packet would there be a request for a specified amount or a bid offer. Mr. Randall stated \$500 was being asked per building. He stated if someone took the challenge to either demolish or improve the building, there is a significant investment for Butte-Silver Bow. He stated the Developer's Packet would be placed on many websites as well as historic building websites.

Commissioner Sorich asked what kind of bonding would be required of a developer.

Dori Skrukud, Office of Community Development, stated bonding requirements will vary and will be managed by the building department. Two alternatives have been offered in the Developer's Packet, with the first option being rehabilitation with requirements that will be stringent. She also stated the second proposal is a demolition proposal where bonding will be required.

Commissioner Sorich asked what kind of time frame would developers be allowed. Ms. Skrukud stated there is a time frame issue. She stated in the case of rehabilitation, a request that stabilization take place within 90 days of the development agreement.

Chief Executive Vincent stated he was going through the costs and the \$70,000-\$75,000 demolition cost bothered him. He stated he knew the demolition of the Greek Café was contracted out. He stated the road department and metro-sewer department are capable to demolish structures, if that were an option. Butte-Silver Bow crews could demolish the buildings at half the cost. He also stated that should the county save them the money, the soonest it could occur is November. He recommended that it would be negligent to vote to demolish the buildings tonight.

Commissioner Morgan asked Ms. Skrukud if the developer's packet gave an accurate description of the buildings. He also asked if the packet was displaying the correct conditions the buildings are in. Ms. Skrukud stated she agreed it has been problematic in the past. She stated what is included in the packet is a structural evaluation of the Brinks Building by a professional engineer and the stabilization costs. She stated these were not available for the Deluxe Building. The Developer's Packet does not make an assumption of the condition of the Deluxe with the exception of the failing of the rear wall. She stated they have tried very carefully to portray the building with the information available to them.

Commissioner Fisher asked what kind of contingencies would there be if a developer purchased the buildings and decided to demolish them. Mr. Randall clarified if Commissioner Fisher meant if a developer chose to demolish the buildings. Commissioner Fisher asked what the requirements would have to be followed to use the lots if the buildings are demolished. He stated he was confused on that part because of the zoning laws.

Mr. Randall stated it is addressed in the Developer's Packet and Ms. Skrukud could discuss it in depth. Commissioner Fisher asked if it could be used for parking area. Mr. Randall stated it could, if approved by the zoning board and Council.

Chief Executive Vincent stated there are a couple of members of the public that would like to speak.

Commissioner Henderson asked when the new developer's packet would be available. Mr. Randall stated it would be in his mailbox tomorrow.

Commissioner Shaw stated this was coming full circle on Council. She stated all three ideas were good. She stated she invited all of Council to view the buildings first hand and half of Council was able to view them. She also stated Council was taking this very seriously.

Linda Harvey Campbell, CPR, stated she would like to read a letter from the Butte CPR regarding their views, comments, and suggestions regarding the Brinks and Deluxe Buildings. She stated the preferred option was to have the feasibility study done. She stated a study would provide Council the ability to make a more informed decision. She asked that every effort be made to save the Deluxe Building, even if it is decided the Brinks cannot be saved. She also stated the Dust to Dazzle tour was coming up and invited Council to the event to help celebrate the work being done by homeowners and businesses in Butte.

Chris Harris, stated there was a bit of misinformation regarding this issue. He stated there was less than credible behavior on behalf of Butte-Silver Bow. He also stated the conditions that have caused this building to be in its current condition have been documented since the mid-1980's. He stated the language in the initial developer's packet may have been gilded. He stated there is an assessment from an engineer and an architect. But an architect cannot move forward without an engineering report. He stated Pioneer Engineering provided an assessment of the property and their work is being overshadowed by the architect. Mr. Harris stated he hoped the building could be saved but in the absence of a developer much public money is being discussed.

Debra Thomas, a tax-payer in Butte, Montana, stated she would like to comment on the issue with the Brinks and Deluxe Buildings. She stated they are current owners of the building next to the Brinks and Deluxe. She stated the buildings are an eye-sore and a hazard. She also asked what precedent is being set when taxpayer money is being thrown into dilapidated buildings. She also asked why the Deluxe was purchased with taxpayer money if the building was not going to be demolished.

Commissioner Morgan stated he did not see Council going for another three months on a developer's packet when the building was purchased to be demolished. He stated he would not have voted to buy the Deluxe had he known it was going to be saved. He asked how many opinions are needed before a decision was made.

It was moved by Commissioner Morgan and seconded by Commissioner Sorich to proceed with the demolition of the Brinks and Deluxe Buildings and place Communication No. 13-432 on file.

Commissioner Moodry stated the fact in Finance and Budget they do review the payments made for the large machines that Chief Executive Vincent referred to are available. He asked Commissioner Morgan if they proceed and schedule Mr. Dennehy's people to proceed as soon as they can. He asked what the intent is.

Commissioner Morgan stated he would ask the Chief Executive to schedule the demolition as soon as possible without an RFP.

Commissioner McDonough stated he did not think the math added up. He stated he felt purchasing the Deluxe was a good idea with the intent on avoiding litigation. He stated he voted personally to avoid litigation and felt there was two options presented by avoiding litigation and possible demolition. He also stated demolition does cost the taxpayer money.

A sub-motion was made by Commissioner McDonough and seconded by Commissioner Ralph to move forward with the enhanced developer's packet on the two buildings for the amount of time Community Development has scheduled.

Commissioner Shaw stated she echoes Commissioner McDonough's remarks about the Deluxe Building. She stated action was needed to protect Butte-Silver Bow from potential litigation. She stated she understands Ms. Walsh's feeling regarding the buildings. She also stated the Deluxe actually has three walls that are set up against the Brinks Building and is hooked into the Brinks Building. She also agrees this is a new situation and they will possibly find a buyer that would be interested in buying and renovating the buildings. She stated she felt 60 days should be the maximum it is offered.

Commissioner Moodry stated he had heard good things in both statements and supports Commissioner Morgan's thoughts and explained Commissioner McDonough and Shaw's comments are valid, too. He stated there does need to be a deadline. He stated if someone has the idea of purchasing, this would be a good idea.

Chief Executive Vincent stated the November time frame was discussed with others before he suggested that date.

Commissioner Sorich stated he appreciated everyone discussing the different options but believes the building needs to be demolished and supports Commissioner Morgan's motion. He stated these are bad buildings in rough shape and has a hard time envisioning a developer wanting to come in and spend the money it will take to refurbish the buildings. He stated the footprint of the building is not big.

Commissioner Andersen stated he had a couple of questions. He stated he saw Jim Jarvis in the audience and asked if he had any comments to bring forth.

Jim Jarvis, Butte-Silver Bow Historic Preservation Officer, stated the following:

- ❖ Of the three options, he felt the enhanced developer's packet was the way to go.
- ❖ Reiterated his support for this option.

Commissioner Andersen stated he went through the developer's packet and saw many things that had been done in the past in the form of letters. He stated he did not see anything from Mr. Hafer.

Ms. Skrukruud explained the information they had received from Mr. Hafer was light and in terms of possibly doing a feasibility study.

A motion to end all motions was made by Commissioner Andersen to include Mr. Hafer's proposal in the developer's packet and to go with the developer's packet as soon as possible.

Chief Executive Vincent asked the County Attorney if the additional information from Mr. Hafer could be included in the packet without having to substitute the motion. Commissioner Andersen agreed this would be fine.

Commissioner Palmer stated everything Mr. Hafer said should be included if his report was to be included. He also disagreed with Commissioner Shaw's assertion the Deluxe was purchased to possibly renovate and not for definite demolition.

Commissioner Morgan commented that he too, wished there was a developer that would take the buildings. He stated if there was someone who really had an idea for these buildings, they would have made contact by now. He also stated one of the liabilities they have is a building with a fence around it to protect the public.

Commissioner Fisher stated Council needed to move forward with this with a vote to expedite the demolition and move on with this.

Commissioner Andersen withdrew his motion to end all motions because the developer's packet is a draft only.

Commissioner McDonough asked if there were any calls regarding a potential developer's packet. Chief Executive Vincent answered no.

Commissioner McDonough stated a developer's packet is tied up in typical government red tape and that scares people away. He also stated the taxpayers are on the hook if Butte-Silver Bow demolishes the buildings, while putting out for a developer's packet does not cost anything.

Chief Executive Vincent stated a date had yet to be set. Commissioner McDonough stated Ms. Skrukruud stated a possible 30 to 45 days. Ms. Skrukruud explained there is a minimum requirement by ordinance that it has to be open for offering.

It was moved by Commissioner McDonough, seconded by Commissioner Ralph and tied by a roll call vote of 6 yeas and 6 nays to move forward with the enhanced developer's packet on the two buildings for the amount of time Community Development has scheduled. Chief Executive Vincent broke the tie by voting yea. The motion passed. Commissioners Fisher, Walker, Morgan, Palmer, Sorich, and Foley voted nay.

13-461 Jeff Amerman, Director, Butte-Silver Bow Finance and Budget Department, submitting to Council the Chief Executive's recommended preliminary budget.

Chief Executive Vincent stated the following:

- ❖ There were 14 new position requests and the preliminary budget includes 8.25 new employees.
- ❖ There are a number of proposed reductions of positions.
- ❖ Recommended 18% increase on employer contributions on health care insurance.
- ❖ In the absence of performance evaluation, recommended cost of living increase of 2.5%.
- ❖ Capital purchase requests are \$68.6 million in requests and \$66.7 million were granted.
- ❖ Prioritizing the roads has been discussed with planning and implementation of fees that will generate monies for the road department.

Jeff Amerman, Director, Butte-Silver Bow Finance and Budget Department, stated the following:

- ❖ Moving towards performance management budgeting while moving away from all the line items.
- ❖ Most of the budget is in 5 major categories.
- ❖ The line items will always be in the budgeting system, they just won't be displayed.
- ❖ The labor changes sheet is in the budget, with Chief Executive recommendations.
- ❖ The capital purchases are similar to years past.
- ❖ Most of the budget is a base line budget meaning last year's budget is this year's budget.
- ❖ Draw down accounts are the exception.
- ❖ Water, Metro, Landfill, and Road budgets are not draw down.
- ❖ There were some issues in that time is needed to have staff review the labor allocations.
- ❖ This is the same information provided in years previous but in a different format.

Commissioner Shaw stated in the old format projected capital was at the bottom of the sheet. She asked if they did not show up. Mr. Amerman stated there would be a detailed capital expenditure list and summaries by the time the budget is ready to go.

Commissioner Moodry stated the sheets are really helpful because the items being requested are listed with descriptions. He stated they are a great tool to look at while trying to balance everything out.

Mr. Amerman stated the letter Commissioner Foley sent out on behalf the Finance & Budget Committee is what he would like to see Butte-Silver Bow moving toward in the budgeting process.

Commissioner Sorich asked if there would be anymore labor change requests. Chief Executive Vincent stated this was about it except for a position in the Health Department that is required by Montana Code. He also stated this has been a challenge going from a system that has been in place for a long time to one that better reflects how money is spent. Chief Executive Vincent commended Mr. Amerman and his department, as well as Mr. Sesso, for the time and effort that has been put into this transition period.

Commissioner Henderson asked, if on the labor change request, the RN position is required by the state.

Dan Powers, Interim Health Director, stated the MCA does required county governments to fund a position for a communicable disease nurse.

Commissioner Morgan asked if there could be a table of contents on the front of the budget. He stated this would help. Chief Executive Vincent stated this was a preliminary budget and there could be some formatting done.

Jon Sesso, Director, Butte-Silver Bow Planning Board, stated the following:

- ❖ He was asked to join the budget team to be the devil's advocate relative to the transition and to provide a voice in the presentation of the budget.
- ❖ He stated we are not in a place to present the budget in a way that gives the intel that is needed.
- ❖ In this particular year and submittal, Council will have the opportunity to build it from its inception.
- ❖ In light of Commissioner Morgan's point, he urged Mr. Amerman to get the fund numbers back into the budget for cross-referencing.
- ❖ In the Special Revenue Funds, this sort of represents all the grants Butte-Silver Bow receives. The accuracy is paltry compared to the accuracy that will be shown in a month from now.

Commissioner Foley stated the letter presented to Council is a first from a Chief Executive and it is very helpful for Council and the media. He stated there are a couple of other labor changes not listed. He thanked Mr. Amerman for the capital purchase requests as they were used last year. He stated the Chief Executive is proposing to refer the budget to the Finance and Budget Committee with a suggestion to sit down with Mr. Amerman and Mr. Sesso. He stated he was not sure of the legalities once Finance and Budget is given the budget.

Mr. Amerman stated they have had discussions on this. He stated he would like to alleviate Council's concerns they might try to sneak something into it. He stated if they would like, they could place parameters to help with this. He also stated they wanted to avoid having to go through all the exhibits because of all the line items, but wanting to have total transparency at the same time.

Commissioner Foley stated they would like to make sure there is transparency and to avoid issues that were a concern last year. He also stated that procedurally, once the budget is in the committee, they want to make sure they are following through with it.

Commissioner Palmer stated he was glad to hear someone say they are not there yet because it is different this year.

It was moved by Commissioner Foley, seconded by Commissioner Moodry and passed by a unanimous verbal vote to refer Communication No. 13-461 to the Finance & Budget Committee.

SECTION 3 SUSPENSION OF THE RULES FOR FINAL PASSAGE

It was moved by Commissioner Shaw , seconded by Commissioner Morgan and passed by a roll call vote of 12 yea and 0 nay to suspend the rules for the purpose of passing Council Resolution Nos. 13-34, 13-35, and 13-36 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. RESOLUTION NO. 13-34

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 REVENUE RECEIVED FROM AN INTERCAP LOAN TO THE BUTTE-SILVER BOW FIRE DEPARTMENT BUDGET TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 13-34 be placed on final reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 12 yea and 0 nay.

2. RESOLUTION NO. 13-35

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 BUTTE-SILVER BOW GENERAL FUND REVENUE FROM CASH RESERVES TO THE BUTTE-SILVER BOW DISTRICT COURT CLERK OF THE COURT BUDGET TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 13-35 be placed on final reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 12 yea and 0 nay.

3. RESOLUTION NO. 13-36

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 BUTTE-SILVER BOW GENERAL FUND REVENUE FROM CASH RESERVES TO THE HEALTH INSURANCE FUND TO COVER UNANTICIPATED EXPENDITURES AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 13-36 be placed on final reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 12 yea and 0 nay.

**SECTION 4 ORDINANCES AND RESOLUTIONS
FINAL READING**

**1. COUNCIL BILL NO. 13-5
ORDINANCE NO. 13-5**

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 204 AND SECTION 10.36.020 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "ONE-WAY STREETS AND ALLEYS"; ESTABLISHING A ONE-WAY STREET ON PHILLIPS STREET WHERE THE TRAFFIC WILL MOVE NORTH FROM COBBAN STREET TO MARCIA STREET AND ESTABLISHING A ONE-WAY STREET ON GARRISON AVE. WHERE THE TRAFFIC WILL MOVE SOUTH FROM MARCIA STREET TO COBBAN STREET PROVIDING FOR AN EFFECTIVE DATE HEREIN.

Commissioner Moodry commented on Ordinance No. 13-5 stating this has been a long process and kudos to everyone who helped with this to be done.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 13-5, Ordinance No. 13-5 be placed on final reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 12 yea and 0 nay.

Commissioner Shaw stated the Urban Forestry Board will be installing trees at the Chester Steele Park Friday morning, if anyone would like to help.

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 9:29 p.m.

**MATT VINCENT
CHIEF EXECUTIVE**

ATTEST:

CLERK & RECORDER