

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS FOR SEPTEMBER 17, 2014

The Regular Meeting of the Council of Commissioners was called to order Wednesday, September 17, 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 Palmer, *present*

Commissioner Andersen, *present*

Commissioner Walker, *present*

Commissioner Foley, *present*

Commissioner Ralph, *present*

Commissioner Shaw, *present*

Commissioner McDonough, *present*

Commissioner Henderson, *present*

Commissioner Fisher, *present*

Commissioner Moodry, *present*

Commissioner Sorich, *present*

STAFF PRESENT

Eileen Joyce, Butte-Silver Bow County Attorney

Laura Sargent, Deputy Clerk & Recorder

Kareniesa Kohn, Council Secretary

PRAYER

Commissioner Henderson said the prayer.

PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA

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

- ❖ In regards to Communication No. 14-440, he has located 2 architects who will provide conceptual drawings.
- ❖ The community would be better served with an enhanced waterpark and a heritage theme park.
- ❖ In regards to Communication No. 14-437, he commends Mr. Ellington for asking for three options.
- ❖ Does not agree that we need another public meeting.
- ❖ They have already spent money on a special election.



Dana Trandahl, 2655 Nettie, Butte, MT., stated the following:

- ❖ In regards to the Committee of the Whole, Section 17, Communication No. 14-430, progress is being made since the last discussion.
- ❖ In regards to the water line: permits have been secured and the water line has been retired.
- ❖ She is available for questions.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING, SEPTEMBER 3, 2014 AND THE SPECIAL MEETING, SEPTEMBER 8, 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 September 3, 2014 and the Special Meeting of September 8, 2014.

ITEMS NOT ADDRESSED ON THE AGENDA

Emergency Suspension of the Rules to allow Communication No. 14-457 to be added to the agenda.

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 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. 14-457 to be added to the Agenda of the September 17, 2014 Regular Meeting of the Council.

CHIEF EXECUTIVE REPORT

Chief Executive Vincent reported the following:

- ❖ Emergency exercise occurred today and went well.
- ❖ State DES will provide feedback.
- ❖ There is work on Alaska Street. A sewer line collapsed.
- ❖ Kudos to Public Works Director Schultz.
- ❖ There is activity on Kaw Avenue. Wasley Construction is performing stormwater work.
- ❖ There is work on Continental by ARCO.
- ❖ Today, display pictures celebrating the 150th anniversary of discovering gold were set up.
- ❖ The Archives and the Daughters of the Revolution have placed a plaque at the location.
- ❖ The Montana League of Cities and Towns Conference in West Yellowstone is approaching.
- ❖ On Tuesday, David Neilson, will be having a regional meeting regarding the MTLCT at the Archives.
- ❖ The MACO Annual Conference will be next week in Kalispell.



SECTION 1 CONSENT AGENDA

- A.
1. COMMITTEE OF THE WHOLE MEETING REPORT
 2. JUDICIARY COMMITTEE MEETING REPORT
 3. PUBLIC WORKS COMMITTEE MEETING REPORT
 4. FINANCE AND BUDGET 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 Andersen segregated #5.

Commissioner McDonough segregated #11.

Commissioner Morgan segregated #3.

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 4, and Section B, Items 1 through 24, with exception to numbers 3, 5, and 11.

Segregation - #3, Communication No. 14-435

Robert A. Macioroski, Director, Butte-Silver Bow Land Office, recommending to Council in regards to Communication No. 14-339 that a public auction be held and offer all surplus park lands that did not sell in the auction held in January 2014.

Commissioner Morgan stated he was concerned about selling the property for only \$100 and it seems like a waste. He stated the property is worth more. He also stated he has no issue with selling the property.

Mr. Macioroski stated the following:

- ❖ The Land Sales Committee came up with this recommendation.
- ❖ The last few tax sales had minimum bids and lively auctions
- ❖ Sometimes the price can go up to a \$1000 a bid.
- ❖ Some of the appraisals can be questioned on their accuracy.
- ❖ This was done to incur interest in the auction.

Commissioner Morgan asked if they should step back and rethink this. He then asked the County Attorney if they could discount this property.

County Attorney Joyce stated the following:

- ❖ We do have an ordinance on the sale of parklands.



- ❖ It does require the appraised value for sale.
- ❖ The ordinance is silent on what is done next if there are no bidders.
- ❖ Land Sales started with a possible offering at half the appraised value.
- ❖ Ultimately, they determined to start bidding at \$100.
- ❖ There is no guidance or statute in the local ordinance.

Commissioner Morgan stated he would like to work with Mr. Macioroski and Mr. Ellington to come up with a better approach than this.

Commissioner Shaw stated she has spoken with the Tatge's and time is of the essence for them.

Commissioner Fisher stated the sales need to have a reserve minimum and it should be that in this auction. He stated he concurs with Commissioner Morgan.

Mr. Macioroski stated they did discuss having a reserve amount but there was hesitation of they would get any interest if they proceeded with that.

Commissioner Andersen stated there are some properties from the last list that were held back and ask if this list were those.

Mr. Macioroski stated these were the ones offered in January 2014.

It was moved by Commissioner Morgan, seconded by Commissioner Moodry and passed by a unanimous verbal vote to refer Communication No. 14-435 to the Committee of the Whole.

Chief Executive Vincent stated he was going to have Mr. Nasheim give an update on the property at 750 S. Wyoming at this point because he did not ask him to do it earlier.

Mr. Nasheim stated the following:

- ❖ He received information today regarding the building at 750 S Wyoming.
- ❖ The waterline was retired today but he does not have confirmation on it yet.
- ❖ Once he has that, they can sign off on the demolition permit.
- ❖ He received a letter from Mr. Lynch that he was trying to retire the utilities from NorthWestern Energy.
- ❖ He has a phone message from Mr. Lynch.
- ❖ He received a note from Mr. Bruce Gilmer on possibly helping with the demolition.
- ❖ Jordan Construction is also interested.
- ❖ Has not yet seen the contracts that were due today from Mr. Lynch.

Segregation - #5, Communication No. 14-437

E. Jay Ellington, Director, Butte-Silver Bow Parks & Recreation Department, requesting Council's authorization for the Chief Executive to sign an agreement with Pioneer Technical Services to study and provide options for a new swimming pool in Stodden Park.



Commissioner Andersen stated the following:

- ❖ He is also tired of studies being performed.
- ❖ The bond issue went before the voters.
- ❖ It was voted down.
- ❖ With our budgetary constraints he is concerned about putting a project like this out there.
- ❖ He is also concerned with the upkeep costs.

Chief Executive Vincent stated these are good points but if he had read the letter, all those points are covered.

Mr. Ellington stated the following:

- ❖ He is trying to move forward with this project at Stodden Park.
- ❖ There is an analysis of the soil and the current pool decking.
- ❖ There needs to be a renovation of the dressing rooms.
- ❖ He would like the public and Council to participate in it.
- ❖ He is prepared to move forward.

Commissioner Henderson stated that previously there have already been many studies and asked if their findings were not good anymore.

Mr. Ellington stated he was not sure if the engineering reports included what they are currently looking at. He stated there may be something but he has not seen it and the costs today would be different than what they are today.

Commissioner Henderson stated this went out for vote and it must have had everything it needed. He asked why we are doing this again.

Mr. Ellington stated he was not comfortable with what he saw was done previously and information they have is old.

Commissioner Henderson stated there is a lot of expense here and could they see what engineering firm did the initial study at get back to the basics of this.

Mr. Ellington stated it was Interstate Engineering who did the previous work and he has spoken with them.

Chief Executive Vincent stated that \$20,000 is nothing compared to the cost of the engineering study already performed for a \$7.5 million project.

Commissioner McDonough stated the following:

- ❖ We are talking apples to oranges here.



- ❖ The last proposal started out as a pool and turned into a huge project with many extras added on.
- ❖ He commends Mr. Ellington with his idea of moving forward.
- ❖ This is not a study.
- ❖ It is 3 options being provided to Council.
- ❖ This is a great idea and money well spent.
- ❖ This will give them the opportunity to put an action item out there.

Commissioner Sorich stated this is approved money in the budget and he hopes it will not be used to convince voters on the same thing before.

Commissioner Shaw stated the following:

- ❖ She applauds Mr. Ellington.
- ❖ She believes Butte deserves a pool.
- ❖ However, they just approved a budget and taxing the taxpayers to bring reserves back up.
- ❖ Who will pay for it and the upkeep?
- ❖ There is not a pool out there that is self sufficient.
- ❖ They spent \$50,000 on an engineering and marketing study.
- ❖ They spent \$29,000 on a special election.
- ❖ Almost \$100,000 total had been spent and it was voted down.
- ❖ She has a little angst over just approving taxing the citizens to boost our reserves and then they are approving this.

Chief Executive Vincent stated the following:

- ❖ They are getting to far ahead of themselves here.
- ❖ There are a number of ways to finance this.
- ❖ They are a little over themselves on this.
- ❖ If they can't find a way to build a pool, they have issues.
- ❖ This is the right thing to do.
- ❖ They owe the citizens a pool.
- ❖ He would appreciate their support.

Commissioner Foley stated the following:

- ❖ Chief Executive Vincent stated a lot of what he wants to say.
- ❖ If they want a vibrant community, they need to step up to the plate.
- ❖ They need to make progress.
- ❖ This can be done.
- ❖ Let's do this right.

Commissioner Fisher stated he concurs with Chief Executive Vincent. He stated they are putting the cart before the horse and they need to measure twice and cut only once. He reminded everyone there is \$20,000 in the budget to perform this study.



Commissioner Henderson stated the following:

- ❖ Most of the community wants a pool.
- ❖ He brought up he wants the \$20,000 to be spent correctly on what they have already done.
- ❖ They should have something on the record on what has already been done.
- ❖ He knows the Chief Executive will direct this in the right direction.

Commissioner Andersen stated that again, his concern is with the upkeep costs and the old pool failed because Butte-Silver Bow did not have the money for upkeep.

Chief Executive Vincent stated Commissioner Andersen was putting the cart before the horse again.

Commissioner Morgan stated he was abstaining from the vote due to Pioneer Technical being his employer.

It was moved by Commissioner McDonough, seconded by Commissioner Ralph and passed by a unanimous verbal vote to Concur with Communication No. 14-437 and Place it on File.

Segregation - #11, Communication No. 14-443

Jim Jarvis, Butte-Silver Bow Historic Preservation Officer, requesting Council consider and adopt the Butte-Silver Bow Comprehensive Historic Preservation Plan.

Commissioner McDonough stated the following:

- ❖ This plan was put together with a committee that met for over a year.
- ❖ 12 citizens that met for a year and every meeting was noticed to the public.
- ❖ This has been out for review for a couple of months now.
- ❖ There has been a lot of effort and thought put into the plan.
- ❖ It has gone through several revisions.
- ❖ This puts the framework into place.
- ❖ There has been plenty of opportunity for public input for over a year.
- ❖ It has been in final review for a couple of months now.
- ❖ He wants Butte-Silver Bow to start the work in the plan.
- ❖ Not every committee member made every meeting but they were made aware of what occurred at every meeting.
- ❖ It is a good plan.

A motion was made by Commissioner McDonough and seconded by Commissioner Moody to Concur with Communication No. 14-443 and Place it on File.

Chief Executive Vincent stated the following:

- ❖ Commissioner McDonough raises good points.



- ❖ This has been out there for a couple of months.
- ❖ There was errant reporting by the Butte Weekly stating it was open and closed for public comment at the last presentation.
- ❖ That is simply not true.
- ❖ Everything in the plan would not implemented at once.

Mr. Jarvis stated he can answer any questions they may have. He stated he agrees this lays a framework and if they move on one of the action items, it would come before Council for final approval.

Chief Executive Vincent stated this is a work list and any of the items will come before Council for consideration.

Commissioner Palmer stated this was put out to the public that this would be discussed at next week's meeting. He stated there were emails of concern of the lack of public participation. He also stated this communication has been on th agenda for a while and that one more week would not hurt.

Commissioner Sorich stated he is all for preservation and to hear this will be done in steps eases his concerns regarding the expense of the plan.

Commissioner Shaw stated she originally had this communication to be concurred and placed on file but felt for Council's benefit, it would be good to have another week for consideration.

Commissioner Foley made note there were two commissioners absent for the presentation and have been gone.

Commissioner McDonough stated the following:

- ❖ He has issues with public participation when they have had 14 months to participate.
- ❖ There was opportunity at every meeting for public participation.
- ❖ That was adequate and suitable.
- ❖ The public has had over a year for participation and comment.
- ❖ He will go with Commissioner Foley's motion.

It was moved by Commissioner Foley, seconded by Commissioner Morgan and passed by a unanimous verbal vote to stay with the Original Recommendation and Refer Communication No. 14-443 to the Committee of the Whole.

Emergency Suspension of the Rules: Communication No. 14-457

Mr. Ellington stated this was brought before Council this meeting because they needed to get started on the project before the ground freezes.



Commissioner Fisher asked what the agreement was with the School District. Mr. Ellington stated they have general drawings completed and Butte-Silver Bow would be putting up and tearing down the nets every year.

Commissioner Fisher asked what kind of financial agreement there was. Mr. Ellington stated the school district would provide the cost.

It was moved by Commissioner Sorich, seconded by Commissioner Shaw and passed by a unanimous verbal vote to Concur with Communication No. 14-457 and Place it on File.

SECTION 2 ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL BILL NO. 14-9 ORDINANCE NO. 14-9

AN ORDINANCE AMENDING SECTION 2 OF BUTTE-SILVER BOW ORDINANCE NO. 134 AND SECTION 2.04.010 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); ADJUSTING THE ANNUAL SALARIES OF THE CHIEF EXECUTIVE, COUNTY ATTORNEY, SHERIFF, CLERK AND RECORDER, TREASURER, ASSESSOR, CITY JUDGE, JUSTICE OF THE PEACE, AUDITOR, SUPERINTENDENT OF SCHOOLS, CLERK OF THE DISTRICT COURT, CORONER AND MEMBERS OF THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL BILL NO. 14-10 ORDINANCE NO. 14-10

AN ORDINANCE AMENDING ORDINANCE NO.204 AND SECTION 10.40.050 SUBSECTION (2) OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "SPEED LIMIT"; ESTABLISHING A 25 MPH SPEED LIMIT BEGINNING AT THE INTERSECTION WITH CONTINENTAL DRIVE AND OTTAWA STREET CONTINUING SOUTH ALONG CONTINENTAL DRIVE TO THE INTERSECTION WITH WHARTON STREET AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL BILL NO. 14-11 ORDINANCE NO. 14-11

AN ORDINANCE REPEALING CHAPTER 2 OF TITLE 64 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED "BUTTE-SILVER BOW HISTORIC PRESERVATION COMMISSION" AND REPLACING IT WITH A NEW CHAPTER 64 TO BE ENTITLED "BUTTE-SILVER BOW HISTORIC PRESERVATION PROGRAM", ESTABLISHING THE PRESERVATION, PROTECTION, AND PROMOTION OF HISTORIC PROPERTIES, ESTABLISHING THE APPOINTMENT, QUALIFICATION, DUTIES AND RESPONSIBILITIES OF MEMBERS OF HISTORIC PRESERVATION COMMISSION, ESTABLISHING THE DUTIES OF THE LOCAL HISTORIC PRESERVATION OFFICER; CREATION OF A LOCAL REGISTER



PROGRAM; CREATION OF DESIGN REVIEW CERTIFICATE OF APPROPRIATENESS (COA) PROGRAM; CREATION OF DEMOLITION REQUEST REVIEW PROGRAM; DEVELOPMENT OF PROCESS REGARDING REVIEW OF GOVERNMENTAL UNDERTAKINGS; APPEALS PROCESS; ENFORCEMENT OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

4. RESOLUTION NO. 14-22

A RESOLUTION ESTABLISHING CRITERIA FOR THE CLASSIFICATION OF UNSOLD TAX-DEED LANDS; DETERMINING THAT CERTAIN PROPERTY SHOULD BE HELD IN CITY-COUNTY OWNERSHIP BECAUSE OF COMPELLING PUBLIC INTEREST; ORDERING PARCELS OF REAL PROPERTY BE HELD IN CITY-COUNTY OWNERSHIP AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION 3 ORDINANCES AND RESOLUTIONS
FINAL READING**

1. RESOLUTION NO. 14-32

RESOLUTION RELATING TO \$10,000,000 SEWER SYSTEM REVENUE BOND (DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM), SERIES 2014; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Resolution No. 14-32 be placed on final reading and be passed, having been deemed read at length. The motion passed by a roll call vote of 12 yea and 0 nay.

**SECTION 4 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 No. 14-41 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. 14-41

A RESOLUTION DECLARING THE INTENTION OF THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA TO ACCEPT FEDERAL FUNDS TO PROVIDE HEALTH COVERAGE TO 70,000 LOW-INCOME MONTANANS; PROVIDING FOR THE PUBLICATION AND GIVING OF NOTICE OF THE PASSAGE AND ADOPTION OF THIS RESOLUTION AND PROVIDING FOR THE EFFECTIVE DATE HEREIN.



It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Resolution No. 14-32 be placed on final reading and be passed, having been deemed read at length. The motion passed by a roll call vote of 12 yea and 0 nay.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None.

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 8:47 p.m.

MATT VINCENT
CHIEF EXECUTIVE

ATTEST:

CLERK & RECORDER

