

# MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS FOR OCTOBER 1, 2014

The Regular Meeting of the Council of Commissioners was called to order Wednesday, October 1, 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, *absent*

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  
Colleen Safratowich, 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 Ave., Butte, MT., stated the following:

- ❖ Friendly Amendment on Ordinance No. 14-10. He suggests removing “Ottawa” and inserting “St. Ann’s”.
- ❖ In regards to Ordinance No. 14-8, change to “Neighborhood Community Councils”.
- ❖ Thanked Chief Executive Vincent for his comments at the last Judiciary Committee Meeting.
- ❖ Council should encourage citizens to work together in their community.
- ❖ He did not see any of Council at the Beautify Butte meetings the last couple of years.
- ❖ They can use this system that addresses the unique situation in Butte-Silver Bow.
- ❖ Guidelines and procedures are needed for Community Councils.
- ❖ The Butte-Silver Bow Charter is the law of the land for Butte.
- ❖ Council shall have all legislative powers including to authorize community councils to advise the Council of Commissioners.



- ❖ In the original communication from the Greeley, only one request has been brought into compliance.
- ❖ Ignoring the law in the past is no excuse in the present.

**APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 17, 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 17, 2014.*

**ITEMS NOT ADDRESSED ON THE AGENDA**

**Emergency Suspension of the Rules to allow Communication No. 14-483 to be added to the agenda.**

*It was moved by Commissioner Shaw, seconded by Commissioner Ralph 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. 14-483 to be added to the Agenda of the October 1, 2014 Regular Meeting of the Council.*

**CHIEF EXECUTIVE REPORT**

Chief Executive Vincent reported the following:

- ❖ In regards to Neighborhood Councils, The Judiciary Committee moved it to next week's committee meeting for more discussions.
- ❖ He is going to speak with Great Falls Community Council coordinator regarding their experiences and lessons learned.
- ❖ Great Falls approved their councils in 1996.
- ❖ He will send out emails within the next week regarding the community councils.
- ❖ The Parking and Bike Lane alignment; they have been making amendments to the plan.
- ❖ This will be brought before Council at the next regular meeting.
- ❖ He has arrived at a list of 6 citizens for the Scenic Drive Committee.

**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 Morgan segregated the Committee of the Whole Report, Section 11, Communication No. 14-435.

Commissioner Moodry segregated #7.

Commissioner Henderson segregated #23.

*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, with exception to Item 1, and Section B, Items 1 through 24, with exception to nos. 7 and 23.*

### Segregation - Committee of the Whole Report, Section 11, 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 the following:

- ❖ He had held this communication a couple of weeks ago.
- ❖ He met with Dori Skrukrud, Rob Macioroski, and Patsy Coates.
- ❖ There is an excel spreadsheet on everyone's desks regarding the beginning bids for each property.
- ❖ He feels it is best to offer the properties at the highlighted prices.
- ❖ This is a good way to start the bids.

*It was moved by Commissioner Morgan, seconded by Commissioner McDonough and passed by a unanimous verbal vote to approve Communication No. 14-435, authorize the auction as amended with the starting bids starting at the prices on the attachment and place it on file.*

### Segregation - # 7, Communication No. 14-464

**Jessica Hoff, CEO, Southwest Montana Community Health Center, requesting Council and the Chief Executive contact State Representatives and Governor Steve Bullock regarding the employee health center in Butte and its effects on Southwest Montana Community Health Center.**

Commissioner Moodry stated the following:

- ❖ Mr. Stormer is here and Commissioner Moodry wanted to give him the opportunity to weigh in on this.



- ❖ Ms. Hoff's letter seems to show confusion.
- ❖ An employee health center does not compete with Community Health Center.
- ❖ The claims in the letter are unfounded.
- ❖ This body has been a supporter of the Community Health Center.
- ❖ What the State is trying to do is different than what Community Health Center does.

Ronald Stormer, Director, Butte-Silver Bow Human Resources Department, stated the following:

- ❖ Commissioner Moodry is correct.
- ❖ This communication is late and short.
- ❖ He is not sure if Community Health Center was given the opportunity to bid.
- ❖ This decision was made last year by the State.
- ❖ They were her on June 18, 2014 to give a presentation and speak with Council.
- ❖ Employees can continue to use Community Health Center.
- ❖ This clinic is just another option for employees.
- ❖ Due diligence has been performed in this matter.
- ❖ This facility will have a wellness component we currently do not have.

Commissioner Moodry stated he was glad Mr. Stormer read the communication in the same he did. He stated he would like the Chief Executive's or the County Attorney's opinion on what could be done and stated they have already contracted with the State for the clinic. He also stated this is not a clinic to compete with Community Health Center.

Chief Executive Vincent stated they would not take any action to jeopardize Community Health Center's ability to operate. He stated Mr. Stormer would write a letter to Ms. Hoff to alleviate her concerns.

Commissioner Morgan stated he did try to contact Ms. Hoff this week and left her a voicemail. He stated he did not get a response.

*It was moved by Commissioner Moodry, seconded by Commissioner Henderson, and passed by a unanimous verbal vote to Note Communication No. 14-464 and Place it on File.*

#### **Segregation - #23, Communication No. 14-481**

**Chief Executive Matt Vincent, requesting Council's authorization for the Chief Executive and Council to send a joint letter to the USFS and MDEQ regarding the haul route for the proposed Butte Highlands Gold Mine.**

Commissioner Henderson stated he agrees with the decision to send a joint letter. He stated Mr. Sabo stated the Forest Service was supposed to make a decision but they held off. He asked the Chief Executive if he could explain what he knows about this.



Chief Executive Vincent stated the following:

- ❖ The letter will state the citizens are unwilling to relent on safety issues of Roosevelt Drive.
- ❖ Public comment period at the Forest Service is still open.
- ❖ This will be another communication from this body and where they stand on the issue.

Commissioner Henderson stated the following:

- ❖ Knows Butte-Silver Bow is in favor of the mine.
- ❖ This throws a black flag up for Butte-Silver Bow when people want to start something.
- ❖ Does not understand what the hold-up is.

Chief Executive Vincent stated new gold mines in Montana are difficult to start. He stated the last one started was in 1986 and the FWP sent a letter stating they are comfortable with this startup.

*It was moved by Commissioner Henderson, seconded by Commissioner Moodry and passed by a unanimous verbal vote to Concur with Communication No. 14-481 and Place it on File.*

*It was moved by Commissioner Andersen, seconded by Commissioner Morgan and passed by unanimous verbal vote to reconsider an earlier vote on the Consent Agenda, Section B, to further discuss and segregate #24, Communication No. 14-482.*

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to approve Consent Agenda Section A, 1-4, with exception to No. 1, Section B, 1-24, with exceptions to nos. 7, 23, and 24.*

#### **Segregation - #24, Communication No. 14-482**

**Chief Executive Matt Vincent, requesting Council's concurrence in the submission of a petition for boating restrictions on Silver Lake to the Department of Fish, Wildlife and Parks of the State of Montana.**

Commissioner Henderson stated he had a question for Mr. Schultz. He stated he was trying to understand why it hurts the lake now when it has been fine.

Mr. Schultz stated the following:

- ❖ In his experience, he has not seen any water skiing on Silver Lake.
- ❖ The fishing activity and small skiffs do not cause a problem.
- ❖ The area around the pump house is shallow.
- ❖ With the pumping and filling of the lake, water levels can change quickly.



Commissioner Henderson stated the following:

- ❖ There are 7 to 8 houses out there with boats.
- ❖ Does not understand why this is all of a sudden.
- ❖ To limit boat horsepower hurts.
- ❖ He realizes there might be some liability around the pump house.
- ❖ In all his years being out there, he cannot recollect anyone ever being hurt.
- ❖ He can see the liability at the pump house but not out in the middle of the lake.

Mr. Schultz stated the pump house is unmanned where it used to be and the petition asks the FWP to set a hearing. He stated this gives the public the opportunity to speak their concerns.

Chief Executive Vincent stated the following:

- ❖ When this first became an issue, he spoke with Chief Executive Connie Daniels and her County Attorney.
- ❖ The petition tonight meets tomorrow's deadline for submission.
- ❖ It is based on discussions with Chief Executive Daniels and her County Attorney.

Commissioner Henderson asked if the public will have a chance to speak before the FWP before a decision is made.

Chief Executive Vincent stated absolutely. He stated changes and amendments will be entertained, as well.

Commissioner Sorich asked if there are dates given, could Council be notified of them.

Commissioner Fisher asked if Butte-Silver Bow or Anaconda-Deer Lodge County hold any responsibility if there is an accident on the lake. Mr. Schultz stated Butte-Silver Bow does because it owns the facilities on the lake.

*It was moved by Commissioner Henderson, seconded by Commissioner Andersen and passed by a unanimous verbal vote to Concur with Communication No. 14-482 and Place it on File.*

## **SECTION 2 COMMUNICATIONS TO BE READ AND ACTED UPON**

**14-472 Neil J. Lynch, 202 Greenwood, Butte, MT., requesting Council's authorization to extend the street closure at 750 South Wyoming until October 18, 2014.**

Chief Executive Vincent stated this was included in a letter addressed to the Chief Executive and Council. He stated he felt it was prudent to add it as a communication to tonight's meeting.

Dana Trandahl, no address given, stated it was her understanding they need the extension to progress with the demolition and the new ending date is October 19, 2014 not October 18, 2014.



Commissioner Fisher stated in the last letter Council received, the asbestos remediation was to start today. He asked if that has happened.

Ms. Trandahl stated the asbestos remediation training started today and it is a 4-day process. She stated Mr. Lynch's training has an additional day added.

Commissioner Fisher stated the letter states asbestos removal will begin on October 1<sup>st</sup> and be completed on October 10<sup>th</sup>.

Ms. Trandahl stated the asbestos remediation training has to be completed before the removal can start. She stated the trainer is from Miles City.

Commissioner Fisher asked when the material would be removed. Ms. Trandahl stated it would occur within the time frame of the demolition permit.

Chief Executive Vincent confirmed the demolition permit had been granted.

Ms. Trandahl stated the following:

- ❖ She has a copy of the demolition receipt.
- ❖ The end date is October 19<sup>th</sup>.
- ❖ Before anyone can remove the asbestos material, they must have the training that is currently be done.

Commissioner Morgan asked where the agreements were showing a contractor had been secured to demolish the building.

Ms. Trandahl stated the equipment had been leased, she has pictures of the equipment on-site, and the letters of those who have completed the asbestos training.

Mr. Schultz stated the following:

- ❖ He was at the site today.
- ❖ Mr. Lynch was there with personnel doing the training.
- ❖ Mr. Lynch intends to be his own contractor.
- ❖ He has leased equipment.
- ❖ Dump trucks would be hired to remove the debris.

Ms. Trandahl stated more equipment is coming next week.

Commissioner Morgan stated having equipment on site does not show this is secure.

Ms. Trandahl stated there is equipment on site, the training is taking place and next week she could come back and answer more questions.



Commissioner Moodry stated the following:

- ❖ We are talking about 2 different things.
- ❖ Letters were provided to Council by Mr. Lynch regarding firms he was in discussions with.
- ❖ He knows these firms do not require the asbestos training.
- ❖ Mr. Lynch is being contrary to what he told Council 2 weeks ago.
- ❖ He is dragging the process out.
- ❖ These other firms could have already started the demolition.
- ❖ In his letter, he states traffic has not been affected but that's statement is not accurate.
- ❖ He asked what they would be told next week.

Ms. Trandahl pointed out she does not have the asbestos training but she knows it is a higher level of training.

Chief Executive Vincent stated the following:

- ❖ He will refer this to Mr. Schultz.
- ❖ His concern is with the process laid out 2 weeks ago by Mr. Lynch.
- ❖ Everything has now changed.
- ❖ We are doing our best to balance what is a significant impact on the neighboring businesses.

Mr. Schultz stated the following:

- ❖ Jon Sesso, Planning Director, gave him a packet that was dropped off today at the Planning Department.
- ❖ It contains 4 letters from the contractors who will be demolishing the building: Silver Bow Excavation, High Country Concrete, C. Davies Enterprises, and DG Transport.
- ❖ We have received these letters confirming the work.

Commissioner Andersen stated he had been the same information earlier from Mike Nasheim. He stated the phone numbers on the letter are all the same but for different companies. He stated he tried to make contact with the number but was unable to reach anyone. He asked if the companies had been contacted and the information checked out. He stated this all raises many concerns for him.

Commissioner McDonough asked if they authorize a demolition permit with a licensed, bonded contractor and then Mr. Lynch chooses to perform the work himself, shouldn't he be licensed and bonded, as well.

County Attorney Joyce stated he was issued the permit and perhaps Mr. Sesso could confirm what was shown to give Mr. Lynch the permit.



Mr. Sesso stated the following:

- ❖ The procedure for any contractor is to post the \$1000 bond.
- ❖ They do not have a procedure regarding proof of which contractor would be used or if he would do it himself.
- ❖ They have not gone through the process of ensuring the 4 sub-contractors he had site today are bonded and insured.
- ❖ He doesn't have a sense yet of whether or not Mr. Lynch is doing it himself.
- ❖ Given the change in course, the individuals he has listed is a positive development.
- ❖ It attests to their willingness to participate in training.
- ❖ All the waste will be classified "asbestos waste".
- ❖ The Planning Department is reacting to the information they were given today.

Commissioner McDonough stated it seems like an amateur effort on a professional level demolition. He stated he is concerned about a wall going into another building and this is a technical job.

Mr. Sesso stated he concurred with Commissioner McDonough and they have issued a permit based on there would be a signed agreement with a professional contractor versus an amateur.

Chief Executive Vincent stated the following:

- ❖ Before demolition can begin, we need additional assurances from Mr. Lynch.
- ❖ We need details on how this will progress.
- ❖ We need details on the actual demolition plan.
- ❖ With all the material being deemed as asbestos waste, it has a \$26 yd<sup>3</sup> fee at the landfill.
- ❖ We will give Mr. Lynch a 10% discount on the fees as earlier promised.
- ❖ It is a fair estimate that the landfill fee will be approximately \$234,000.
- ❖ Butte-Silver Bow will not be able to forgive this amount.
- ❖ By acting upon this communication tonight, we are prepared to move forward.

Commissioner Palmer stated they are being asked to extend the street closure. He stated they should authorize the street closure because it is not up to Council to agree with all the provisions as this why they have Planning Department.

Commissioner Andersen asked if there was anything Mr. Mrs. Steele would like to say to Council.

Dan Steele, Steele's Warehouse, stated the following:

- ❖ How long does have to do this?
- ❖ It has not been started yet.
- ❖ Two weeks ago, Mr. Lynch stated Jordan Contracting would start on the 1<sup>st</sup> and be done by the 8<sup>th</sup>.
- ❖ What are we going to do?



Chief Executive Vincent stated in recognition of their concerns, which is why he said they were not there yet. He stated Mr. Lynch is trying to take some level of responsibility and that Butte-Silver Bow needs details on the project.

Mr. Steele asked if the project would be completed by October 18<sup>th</sup>. Chief Executive Vincent stated if it is done under Mr. Lynch's powers. He stated Butte-Silver Bow is held under a different standard and it would be beyond October 18<sup>th</sup> at that point.

Commissioner Andersen asked that by extending the timeline, for the permit to remove everything, how we can extend it if he doesn't even have a contractor.

Mr. Sesso stated the following:

- ❖ If this is not extended, they would be back here next week.
- ❖ Monday is the earliest he can start because he has training to complete.
- ❖ He does not have the funds to hire a contractor.
- ❖ There seems to be legitimate effort on his part.
- ❖ It is difficult for Butte-Silver Bow to deny him a chance to succeed or fail.
- ❖ To deny the communication will make him fail.
- ❖ The Planning Department will make sure Mr. Lynch submits a detailed demolition plan.
- ❖ Mr. Lynch has not done that yet.
- ❖ We have to investigate the 4 companies that will be on the job site.
- ❖ They will be questioned on whether they have bonding and insurance to perform the job.
- ❖ Mr. Lynch will have to do this by himself due to lack of funds.
- ❖ He is encouraged he has asked the men to be properly trained.
- ❖ He needs this chance to succeed.
- ❖ We cannot place Butte-Silver Bow in the position of eliminating the possibility for him to succeed.
- ❖ This is a painful step in this process.
- ❖ It is a bad situation for everyone.

Commissioner Sorich stated he wanted to give Mr. Lynch the benefit of the doubt but Butte-Silver Bow has a responsibility for public safety regarding the asbestos being hauled through town.

Chief Executive Vincent stated the DEQ will make sure of that.

Commissioner Ralph stated she agrees with Mr. Sesso on the extension and asked if there was the possibility of additional bonding if Mr. Lynch is doing this himself.

Chief Executive Vincent stated that could be looked into.



Commissioner Fisher stated the following:

- ❖ This communication is asking for an extension.
- ❖ If we don't agree to it, do we open the road tomorrow?
- ❖ We are in a tough spot.
- ❖ We really have no vote here.

Chief Executive Vincent stated he could close a street based on legitimate safety issues.

Commissioner Walker called for the vote.

*It was moved Commissioner Palmer, seconded by Commissioner Sorich and passed by a roll call vote of 6 yea and 5 nay to Concur with the request of Communication No. 14-472 to extend the street closure to October 18, 2014 and Place it on File. Commissioners McDonough, Moodry, Henderson, Morgan, and Andersen voted nay.*

**Emergency Suspension of the Rules: Communication No. 14-483**

*It was moved by Commissioner Shaw, seconded by Commissioner Ralph and passed by a unanimous verbal vote to Concur with Communication No. 14-483 and Place it on File.*

**SECTION 3 ORDINANCES  
SECOND READING**

**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.

*It was moved by Commissioner Shaw and seconded by Commissioner Andersen that Council Bill No. 14-9, Ordinance No. 14-9 be placed on second reading and be passed, having been deemed read at length. The motion passed by a roll call vote of 9 yea and 2 nay. Commissioners Henderson and Moodry voted nay.*

**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.

Commissioner Palmer stated he thought this was supposed to start on St. Ann. Mr. Schultz told him he was correct and it should have started on St. Ann. He stated it should be amended accordingly.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 14-10, Ordinance No. 14-10 be placed on second reading and be passed, having been deemed read at length. The motion passed by a roll call vote of 10 yea and 1 nay. Commissioner Moodry voted nay.*

#### **SECTION 4 ORDINANCES AND RESOLUTIONS FINAL READING**

##### **1. 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.

Commissioner Andersen stated this resolution happened because of two specific properties. He asked if any action was taken on that. County Attorney Joyce stated she did not know if the owners redeemed it or not.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Resolution No. 14-22 be placed on final reading and be passed, having been deemed read at length. The motion passed by a roll call vote of 10 yea and 1 nay. Commissioner Moodry voted 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 9:07 p.m.

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**MATT VINCENT**  
**CHIEF EXECUTIVE**

**ATTEST:**

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**CLERK & RECORDER**

