

# MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS FOR NOVEMBER 6, 2013

The Regular Meeting of the Council of Commissioners was called to order Wednesday, November 6, 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, *absent*

Commissioner Ralph, *present*

Commissioner Sorich, *present*

## STAFF PRESENT

Eileen Joyce, Butte-Silver Bow County Attorney  
Stephanie Marshall, Deputy Clerk & Recorder  
Kareniesa Kohn, Council Secretary

## PRAYER

Commissioner Henderson led the Commissioners in prayer.

## PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA

Charlene Macioroski, 251 Chipmunk Way, Butte, Montana, stated the following:

- ❖ Would like to address maintenance issues on Chipmunk Way.
- ❖ The road is not a prescriptive use road but it is a private residential use road.
- ❖ Would like to discuss the issues of liability with the County.
- ❖ We proposed granting an easement to the County.
- ❖ There are problems with almost being hit on the road because the road is very narrow at only 18 feet across.
- ❖ Asking Council to address the maintenance and safety issues with the Council.
- ❖ There are issues with the speed at which the neighbors drive.
- ❖ Asking the County for the proposal to be reviewed and to cease coming out to maintain the road until this issue is cleared up.
- ❖ Have yet to hear from Council regarding the letter that was sent to them in September.

Sam Jankovich, Owner of the M&M, stated the following:

- ❖ Is present to speak on proposed public drinking ordinance.
- ❖ He moved back to Butte to restore the M&M.
- ❖ Has invested significant dollars and equity into the property.
- ❖ They are open 24/7, 365 days a year.
- ❖ This ordinance would impact businesses causing him to shut down his midnight shift.
- ❖ The impact on the city would be great.
- ❖ There has been an open container law for over 100 years.
- ❖ People come to Butte to get away and have a different experience.
- ❖ 90% of issues are in Heritage Park.
- ❖ M&M will be impacted if this passes.

### **APPROVAL OF THE MINUTES OF THE SPECIAL MEETING OF OCTOBER 16, 2013 AND THE REGULAR MEETING OF OCTOBER 16, 2013.**

Commissioner Palmer stated Communication No. 13-688 regarding the Special Meeting was inadvertently not placed on file and asked that it be made part of this motion and placed on file.

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to approve the minutes of the Special Meeting of October 16, 2013 and the Regular meeting of October 16, 2013.*

### **ITEMS NOT ADDRESSED ON THE AGENDA**

Emergency Suspension of the Rules to allow Communication No. 13-719 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. 13-719 to be added to the Agenda of the November 6, 2013 Regular Meeting of the Council.*

**13-713 Chief Executive Matt Vincent, requesting Council's concurrence with the confirmation of Mr. Mark Mitchell as a Firefighter with the Butte-Silver Bow Fire Department.**

Jeffrey L. Miller, Director, Butte-Silver Bow Fire Services, stated the following:

- ❖ Mark Mitchell has successfully completed the probationary period.
- ❖ He passed a variety of skill sets needed and is a good addition to the Fire Department.

*It was moved by Commissioner Foley, seconded by Commissioner McDonough and passed by a unanimous verbal vote to concur with Communication No. 13-713 and confirm Mark Mitchell as a firefighter with the Butte-Silver Bow Fire Department and to place the communication on file.*

**13-715 Chief Executive Matt Vincent, requesting Council's concurrence in the appointment of Mr. Dan Dennehy as the Disaster and Emergency Services Manager.**

Chief Executive Vincent stated the following:

- ❖ It was daunting to see Dan's name on the applicant list of 89 applicants.
- ❖ The list was narrowed down to 9 applicants.
- ❖ The consensus was Dan was the most qualified for the position.
- ❖ His experience and education is extensive.
- ❖ He has enjoyed working with Dan.
- ❖ He urges Council to concur with the recommendation.
- ❖ They are going to move quickly with finding a new Public Works Director.

Commissioner Andersen stated he agreed with Mr. Dennehy being chosen for this position. He asked if this will all be fine in the budget.

Chief Executive Vincent stated it is all taken care of and all will work out fine.

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to concur with the Chief Executive's request that Council concur in the appointment of Dan Dennehy as our new Disaster and Emergency Service Manger and to place Communication No. 13-715 on file.*

## **CHIEF EXECUTIVE REPORT**

Chief Executive Vincent reported the following:

- ❖ The Board of Health has chosen their new director, Karen Sullivan.
- ❖ Next week the Chief Executive will be traveling to Los Angeles to the Mayor's Institute.
- ❖ He will be presenting a project on urban design.
- ❖ A case study on investment on urban design in Butte has been put together for the presentation.
- ❖ Butte is the 4<sup>th</sup> city to have taken part in this.
- ❖ The Public Works Director and Human Resources Director positions will be put out for advertisement and he hopes to have them filled by January of 2014.

## **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
- 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, Communication No. 13-699.

Commissioner Palmer segregated The Judiciary Report, Section 6, Communication No. 13-646, The Public Works Committee Report, Section 1, Communication No. 13-365, and #15, Communication No. 13-13-703.

Commissioner Andersen segregated #17, Communication No. 13-705.

*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 excluding Items 3 and 4, and Section B, Items 1 through 25, excluding nos. 11, 15, and 17.*

**Segregation – The Public Works Committee Report, Section 1, Communication No. 13-365**

**Dave Palmer, Butte-Silver Bow Commissioner, District No. 12, requesting Council discuss the speed zones on South Rocker Road and Santa Claus Road and a status report on the maintenance issues associated with Chipmunk Way in Rocker.**

Commissioner Palmer stated this communication has to do with maintenance on Chipmunk Way. He stated a new agreement needs to be agreed upon, and until that time, he recommends Butte-Silver Bow keeps maintaining the road.

Charlene Macioroski stated the following:

- ❖ She opposes the recommendation.
- ❖ Her attorney has stated the county does not have a right to do this.
- ❖ Past maintenance was done by a Butte-Silver Bow employee for his parents using Butte-Silver Bow equipment.
- ❖ The area maintained yesterday has torn up the road and destroyed vegetation and landscaping.
- ❖ She is asking the County to refrain until things can be settled with the County.

County Attorney Joyce stated Butte-Silver Bow's position is contrary to Mrs. Macioroski's position and this is a legal issue between Butte-Silver Bow and the Macioroskis. She also stated a letter has been written to Mrs. Macioroski's counsel advising her of Butte-Silver Bow's position on this matter.

Mrs. Macioroski stated she disagreed with County Attorney Joyce and asked the County to stay off the property, as the owner of the property.

*It was moved by Commissioner Palmer, seconded by Commissioner Henderson and passed by a unanimous verbal vote to concur with the recommendation in the Public Works Committee Report and to place Communication No. 13-365 on file.*

**Segregation – The Judiciary Committee Report, Section 6, Communication No. 13-646**

**Ed Randall, Community Enrichment/Animal Service Department, requesting Council's authorization to discuss possible changes to the Community Enrichment Department.**

Commissioner Palmer stated this is a communication from Ed Randall and Commissioner Palmer would like to change the recommendation so all of Council could voice their opinion.

*It was moved by Commissioner Palmer, seconded by Commissioner Andersen and passed by a unanimous verbal vote to refer Communication No. 13-646 to the Committee of the Whole sitting as the Judiciary Committee.*

**Segregation - #11, Communication No. 13-699**

**Cindi Shaw, Butte-Silver Bow Commissioner, District No. 11, requesting Council's authorization for the Chief Executive to sign a lease with New Butte Leasing, LLC regarding the Butte Volunteer Fire Department lease.**

Commissioner Shaw stated she segregated this communication to explain this was a long time coming. She stated that something that looked like it would be simple to do was not. She also stated a new lease was required. She asked Mr. Ted Bury to come to speak.

Ted Bury, Lexington Avenue, Butte, stated the following:

- ❖ He is a trustee and Senior Member of the Big Butte Volunteer Fire Department.
- ❖ He wanted to thank the Chief Executive, County Attorney Joyce and the mining company for all their work on this project.

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to concur with the recommendation for Communication No. 13-699 and to place it on file.*

**Segregation - #15, Communication No. 13-703**

**Dave Palmer, Butte-Silver Bow Commissioner, District No. 12, requesting Council's authorization in allowing for the introduction of an ordinance regarding Veterans Preference in any Butte-Silver Bow government job they have applied for and have met the minimum requirements for that job.**

Commissioner Palmer stated this is a request to have an ordinance introduced to give Veterans a preference in employment opportunities by Butte-Silver Bow.

*It was moved by Commissioner Palmer, seconded by Commissioner Morgan and passed by a unanimous verbal vote to concur with the request of Communication No. 13-703 and to hold it in the Committee of the Whole until an ordinance is introduced.*

**Segregation - #17, Communication No. 13-705**

**Karen Byrnes, Director, Butte-Silver Bow Community Development Department, requesting Council place Communication No. 13-457, regarding a land donation to Western Montana Mental Health Center, on file.**

Commissioner Andersen stated he segregated this communication to ask if it needed to be cross-referenced with Communication No. 13-457.

Karen Byrnes, Director, Butte-Silver Bow Community Development Department, stated this communication was submitted to let everyone know discussions with WMMHC had taken place and were still on-going. She stated she was asking to place their original communication on file and if and when an additional communication was needed, it would be submitted to Council.

Commissioner Morgan asked if WMMHC was working with the neighbors.

Ms. Byrnes stated they are trying to work closely with the neighbors.

Commissioner Shaw stated this was asking Council to place on file a communication in the Committee of the Whole Report and that she would place it on file at the upcoming Committee of the Whole Meeting.

*It was moved by Commissioner Andersen, seconded by Commissioner Morgan and passed with a unanimous verbal vote to concur with the recommendation of Communication No. 13-705 and place it on file.*

#### **EMERGENCY SUSPENSION OF THE RULES - COMMUNICATION NO. 13-719**

**David Schultz, requesting Council's authorization for the Chief Executive to execute an administrative order of consent issued by the Department of Environmental Quality.**

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to approve the request of Communication No. 13-719 and place it on file.*

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

**13-712 Ellen Crain, Director, Butte-Silver Bow Public Archives, requesting Council read and act upon attached proposal from the Butte-Silver Bow Public Archives regarding the Clark Chateau.**

Ellen Crain, Director, Butte-Silver Bow Public Archives, stated she submitted a proposal to handle the transition of the Clark Chateau to the city-county.

Pat Holland, Manager, Butte-Silver Bow Government Buildings, stated they do have to oversee the building until a plan has been figured out. He stated due diligence items are needed to keep the building in its current condition.

Commissioner Palmer stated they do need to speak on the budget expense and where will the money come from.

Chief Executive Vincent stated the previous \$35,000 monies given to the Arts Foundation will go toward this and there is an estimated revenue of \$10,000 that would add to this. Commissioner Palmer asked if this starts in July or today. Ms. Crain stated they will need to work with the Arts Foundation to move their items and then they would talk about this happening from the fall to the fall.

Chief Executive Vincent stated the termination notice given to the Arts Foundation was a 30-day notice. He understands they will be requesting an extension of the 30 days and Butte-Silver Bow is here to work with them.

Commissioner Morgan asked if Mitzi Rossillin will be a Butte-Silver Bow employee or a consultant. Ms. Crain stated it could go either way. She stated there will be an assistant who is part-time staff already.

Commissioner Morgan asked if the part-time employee will answer to the project manager, even if Mitzi is not a Butte-Silver Bow employee. Ms. Crain stated the details would be worked out as time goes on.

Commissioner Palmer stated he would like to ask Gretchen Miller if she had anything to say.

Gretchen Miller, Executive Director, Butte-Silver Bow Arts Foundation, stated the following:

- ❖ We have secured heated storage for the collections.
- ❖ We will be moving items into the storage.
- ❖ Need to make a schedule with Butte-Silver Bow on facilitating the transfer.
- ❖ A letter of extension has been written.

Commissioner Andersen asked what else needs to be catalogued. Ms. Crain stated there were textiles and carpets that needed to be catalogued. She also stated she will determine what needs to stay or come out of the building as well as determining repair projects.

*It was moved by Commissioner Palmer, seconded by Commissioner Shaw and passed with an unanimous verbal vote to concur with the request of Communication No. 13-712 and place it on file.*

**13-717 Chief Executive Matt Vincent, requesting Council's concurrence for the Chief Executive to write a letter of support to the USGS or appropriate entity for naming a feature in the Highlands Mountains, "Montana Tech Peak".**

John Garrick, Dean, Highlands College stated Montana Tech is well known in doing its utmost in education and something more applied and he feels this is under that category.

Jon Craig and Larissa Watson stated the following: (narrated from a power point presentation)

- ❖ They were working on a project re-measuring Table Top Mountain.
- ❖ While doing this, they realized Peak 10131 was currently un-named.
- ❖ It is the second highest peak in the Highland Mountain Range.

- ❖ Madison County has already given their approval.
- ❖ They are submitting a Federal Package Request.
- ❖ The county line falls between the peaks and they need both Madison County and Butte-Silver Bow County approval.
- ❖ The reason for wanting to name this peak falls into the visibility from the Montana Tech campus as well as being visible from most areas of Butte.
- ❖ They are proposing the name, “MT Tech Peak”.

Commissioner Henderson stated he commended their efforts and asked if there were any elk up in the mountains.

Mr. Craig stated they had spoken with landowners in that area and have received their full support, as well.

*It was moved by Commissioner Palmer, seconded by Commissioner Andersen and passed by a unanimous verbal vote to ask the Chief Executive to write a letter of support for Communication No. 13-717 and place it on file.*

### **SECTION 3 ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY**

#### **1. RESOLUTION NO. 13-71**

A RESOLUTION AUTHORIZING THE SALE OF A PARCEL OF PROPERTY LOCATED IN THE SW ½ OF THE SW ¼ OF SECTION 15, TOWNSHIP 3 NORTH, RANGE 8 WEST FROM THE GREENWAY SERVICE DISTRICT (GRANTOR) TO THE MONTANA DEPARTMENT OF TRANSPORTATION (GRANTEE) TO BE ACQUIRED AS PUBLIC RIGHT-OF-WAY FOR INTERSTATE MAINTENANCE PROJECT, IM 15-2 (117) 122, ROCKER - EB CLIMBING LANE, AND AUTHORIZING THE RECORDING OF THE APPROPRIATE DEED TO EXECUTE THE LAND TRANSFER AS DESCRIBED HEREIN AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

#### **2. COUNCIL BILL NO. 13-14 ORDINANCE NO. 13-14**

AN ORDINANCE AMENDING TITLE 8 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “HEALTH AND SAFETY”; AMENDING CHAPTER 8.04 ENTITLED “WEED CONTROL”, AMENDING SECTIONS 8.04.040, 8.04.050, 8.04.110, 8.04.120, 8.04.160, 8.04.170, 8.04.250, 8.04.260, 8.04.270 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION 4 ORDINANCES  
SECOND READING**

**1. COUNCIL BILL NO. 13-9  
ORDINANCE NO. 13-9**

AN ORDINANCE GOVERNING PUBLIC HEALTH, SAFETY AND WELFARE, TO BE NUMBERED CHAPTER 8.26 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) AND TO BE ENTITLED "PUBLIC DRINKING"; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 13-9, Ordinance No. 13-9 be placed on second reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 6 yea and 5 nay. Commissioners Ralph, Fisher, Foley, Shaw, and McDonough voted nay.*

**2. COUNCIL BILL NO. 13-13  
ORDINANCE NO. 13-13**

AN ORDINANCE AMENDING SECTION 4 (16.02) OF ORDINANCE NO. 204 AND SECTION 10.52.020 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "RESTRICTED IN CERTAIN STREETS;" ESTABLISHING RESTRICTIONS ON PARKING ON PARTS OF MONTANA STREET AND IRON STREET ADDING SECTIONS GG, HH, JJ AND KK AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 13-13, Ordinance No. 13-13 be placed on second reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 11 yea and 0 nay.*

**SECTION 5 ORDINANCES AND RESOLUTIONS  
FINAL READING**

**1. COUNCIL BILL NO. 13-12  
ORDINANCE NO. 13-12**

AN ORDINANCE GRANTING TO NORTHWESTERN CORPORATION d/b/a NORTHWESTERN ENERGY A NON-EXCLUSIVE FRANCHISE AND FIXING THE TERMS THEREOF UNDER WHICH SAID COMPANY MAY CONSTRUCT, EQUIP, LAY, MAINTAIN AND OPERATE NATURAL GAS DELIVERY FACILITIES IN, UNDER, UPON, OVER AND ACROSS STREETS, AVENUES ALLEYS, HIGHWAYS, BRIDGES, EASEMENTS AND OTHER PUBLIC PLACES IN THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA, AND MAY DELIVER AND SELL NATURAL GAS; REPLACING ORDINANCE #2202 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 13-12, Ordinance No. 13-12 be placed on final reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 10 yea and 0 nay. Commissioner Sorich abstained from voting.*

## SECTION 6 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 11 yea and 0 nay to suspend the rules for the purpose of passing Council Resolution No. 13-72 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. 13-72

A RESOLUTION ACCEPTING THE DONATION OF CERTAIN PARCELS OF REAL PROPERTY; SPECIFICALLY FOUR SEPARATE TRACTS (ALUMINUM STREET TRACT, IDAHO STREET TRACT, ALLEY TRACT, AND STORM DETENTION TRACT) LOCATED ON THE FORMER WASHINGTON SCHOOL SITE ON IDAHO STREET, IN THE SW  $\frac{1}{4}$ , SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST, IN THE CITY-COUNTY OF BUTTE-SILVER BOW, MONTANA FOR THE PURPOSE OF PROVIDING PROPER STREET WIDTHS FOR ALUMINUM AND IDAHO STREETS; PROVIDING ACCESS FOR THE TWO ALLEYWAYS ONTO ALUMINUM STREET LOCATED IN BLOCK 4 OF THE TRAVONA ADDITION, AND TO PROVIDE AN AREA FOR STORM WATER RETENTION FOR HIGH WATER RUNOFF EVENTS, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 13-72 be placed on final reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 11 yea and 0 nay.*

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

Jean Ruppert, W. Galena, Butte, Montana, stated the following:

- ❖ Ms. Ruppert read out loud a letter.
- ❖ She passed out a letter and requested it be filed with the Clerk & Recorder's Office in regards to this meeting.
- ❖ Requested all handouts be placed in the public record.
- ❖ In regards to the long-term lease agreement, Council only voted on a draft and things can be changed.

**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 8:50 p.m.

---

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

**ATTEST:**

---

**CLERK & RECORDER**