

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS FOR NOVEMBER 20, 2013

The Regular Meeting of the Council of Commissioners was called to order Wednesday, November 20, 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
Stephanie Marshall, Deputy Clerk & Recorder
Kareniesa Kohn, Council Secretary

PRAYER

Commissioner Henderson said the prayer.

Chief Executive Vincent recognized Boy Scout Troop 1608 with the American Legion who were present to watch a meeting to earn their Citizen Merit Badge.

PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA

Sheriff Ed Lester, Butte-Silver Bow Law Enforcement Department, stated the following:

- ❖ Council has heard from him before regarding the Public Drinking Ordinance.
- ❖ This only prohibits public drinking from 2 am to 8 am.
- ❖ This is enforceable.
- ❖ This will have a positive effect on the community.
- ❖ He will come before Council to give updates on the enforcement of this ordinance.
- ❖ We cannot improve the community by looking back.
- ❖ Butte needs to look forward.

Tom Downey, former president, BLDC, stated the following:

- ❖ Passing this ordinance would be good for Butte.
- ❖ It will encourage additional development in Uptown Butte.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 6, 2013 AND THE SPECIAL MEETING OF NOVEMBER 12, 2013.

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 November 12, 2013 and the minutes of the Regular meeting of November 6, 2013.

CHIEF EXECUTIVE REPORT

Chief Executive Vincent reported the following:

- ❖ He hopes Council will be able to make the public drinking ordinance decision on their own.
- ❖ An informed decision needs to be made.
- ❖ He has been receiving calls and information for the past several weeks.
- ❖ He brought this issue up at the Mayor's Conference.
- ❖ He has been bombarded by different publications, news and radio.
- ❖ There are too many options in front of us to spend more time on this.
- ❖ If this is given to the voters it will carry out for another 6 months and will divide the community.
- ❖ There is no shame in changing your mind.
- ❖ This issue needs to be put to bed.
- ❖ He does not like how Butte is being mocked across the nation.
- ❖ Many opponents say there are already enough ordinances in the books to deal with this, but he feels there is not.
- ❖ This ordinance sends a message to investors and supports the Law Enforcement Department.
- ❖ Many opponents say this will take away from Butte's heritage but this is not true.
- ❖ We will never consider more of an open container ordinance than what is being offered now.
- ❖ This is not the same community as it was many years ago.
- ❖ He is not ashamed to say he has changed his mind on this issue.
- ❖ He would like to see everyone working together on our community.
- ❖ Butte-Silver Bow is moving forward with finding a new Public Works Director and Human Resources Director.
- ❖ The Parking Commission is in a transition period.
- ❖ The Parking Commission will transfer Heritage Park property over to Butte-Silver Bow.
- ❖ The Parking Commission gave unanimous approval to give angle parking wherever it is needed.
- ❖ The Parking Commission is currently \$100,000 in the red and Chief Executive Vincent is trying to find an answer to that.
- ❖ Many positive things were gained from the seminar in Los Angeles.
- ❖ The final draft for the NorthWestern Energy project will be reviewed tomorrow.
- ❖ URA is entering its next 30 years.

ITEMS NOT ADDRESSED ON THE AGENDA

Emergency Suspension of the Rules to allow Communication No. 13-742 to be added to the agenda.

County Attorney Joyce stated there was a communication from Karen Byrnes. She stated it needed to be approved tonight.

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. 13-742 to be added to the Agenda of the November 20, 2013 Regular Meeting of the Council.

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. PERSONNEL COMMITTEE MEETING REPORT

- B. COMMUNICATIONS

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

There were no segregations or friendly amendments.

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 20.

SECTION 2 COMMUNICATIONS TO BE READ AND ACTED UPON

13-742 Emergency Suspension of the Rules Communication

Karen Byrnes, Director, Butte-Silver Bow Community Development Department, stated the following:

- ❖ She just received the Access Agreement from ARCO.
- ❖ Kelly Hoist House Access granted.
- ❖ Work will begin next Monday or Tuesday.

It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to concur with Communication No. 13-742 and place it on file.

13-720 David Schultz, Operations Manager, Water Utility Division, Butte-Silver Bow Public Works Department, requesting time to give an update regarding the demolition of the Brincks/Deluxe Buildings.

David Schultz, Operations Manager, Water Utility Division, Butte-Silver Bow Public Works Department, gave a power point presentation which showed the following:

- ❖ There is a proximity issue to the adjacent buildings and busy streets.
- ❖ There is a perched brick wall in the Deluxe Building.
- ❖ There has been the idea of possibly using explosives.
- ❖ There is the possibility of nibbling the buildings down using a crane and bucket.
- ❖ The buildings will be broken into pieces.
- ❖ The end of the demolition will leave a vacant lot.
- ❖ Potential uses for the site can then be considered.
- ❖ Site can be offered to the private sector for development or kept by Butte-Silver Bow.

Karen Byrnes, Director, Butte-Silver Bow Community Development Department, stated there are two options for the site after demolition, which include Butte-Silver Bow retaining ownership and creating an entry way to Uptown Butte or the site could be offered for private development. She stated it is currently zoned C2.

Commissioner Henderson asked if an appraisal had been done on the Brincks and Deluxe Buildings. Ms. Byrnes stated an appraisal was done on the Deluxe only and that included the building on the site.

Commissioner Sorich asked Mr. Schultz what the plan was to protect the traffic light structures. Mr. Schultz stated they intend to take the light structures down during demolition and to put them back up when they are done.

Commissioner Andersen asked what would be done during the time the lights were down. Mr. Schultz stated they would hire a professional traffic control company while the lights were down.

Commissioner Henderson asked if there was any asbestos. Mr. Schultz stated he did not know at this time.

Commissioner Morgan asked what was needed by Council to proceed. Mr. Schultz stated they did not need anything tonight. He stated sometime this winter a method to tear the buildings down would be chosen and if they needed extra funding, they would then come to Council with the request.

Commissioner Fisher stated both presentations were excellent but it might be wise to bid the demolition and to sell the property to help pay for the demolition.

Commissioner Anderson stated the following:

- ❖ These were the problems he foresaw and Council still rushed through this.
- ❖ This is turning into a too-large problem.
- ❖ It is routine to hire someone to do part of the work and Butte-Silver Bow finish it.

Mr. Schultz stated he did not think it was common to split the work between the private and public sectors. He stated it is still possible to hire a contractor for the entire job.

Commissioner Andersen asked if any work had been done toward asking how much this project would cost.

Mr. Schultz stated the costs are not solidified enough to present them today. He stated he did know how much it would cost Butte-Silver Bow and its employees to demo the buildings. He stated it may turn out they need a contractor to either do the entire job or to complete it in the future.

Chief Executive Vincent stated he previously commented the cost of the demolition of the Greek Café as \$80,000. He stated this cost has been taken out of context by members of Council and that he has not said it would cost this amount to demolish the Brincks and Deluxe Buildings.

Commissioner Andersen stated he did not mean any disrespect to anyone by asking for numbers. He stated he has heard different numbers by others regarding the cost of demolition.

Commissioner Fisher stated he would be opposed with doing a joint venture with a contractor.

Commissioner Henderson thanked Mr. Schultz and Ms. Byrnes for the presentation.

Commissioner Shaw also thanked Mr. Schultz for the presentation.

It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to note Communication No. 13-720 and place it on file.

13-736 Dennis Henderson, Butte-Silver Bow Commissioner, District No. 5, requesting the District Ranger for the Beaverhead-Deer Lodge National Forest, Dave Sabo, give an update on the status of the proposed haulage route for Timberline Resources.

Commissioner Henderson stated he has had discussions with Mr. Sabo regarding this project and he understands Council and the public have many questions.

Dave Sabo, District Ranger, Beaverhead-Deer Lodge National Forest, stated the following:

- ❖ A plan of operation has been submitted by Timberline Resources in March of 2013.
- ❖ A letter was sent to the public in April 2013 with many responses to the letter received by Mr. Sabo.
- ❖ He has narrowed the range of alternatives.
- ❖ He thanked Council for their letter dated August 12, 2013.
- ❖ Each proposed route has been reviewed.
- ❖ An analysis will determine the impacts of hauling on National Forest property.
- ❖ The decision will be made based on hauling on National Forest land.

Chief Executive Vincent asked if this process will be done within forest service resources and would it be completed in January, and if so, when in January.

Mr. Sabo stated the target date is January 24 2014.

Chief Executive Vincent stated this mine pre-dates his administration and is several years in the making. He stated that over \$20 million has been invested and that this body will work diligently with the mine owners. He also stated it would be better if this was over soon.

Commissioner Henderson thanked Mr. Sabo for coming to the meeting to discuss the project. Mr. Sabo thanked Council for their time.

It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed by a unanimous verbal vote to note Communication No. 13-736 and place it on file.

SECTION 3 ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL BILL NO. 13-15 ORDINANCE NO. 13-15

AN ORDINANCE AMENDING TITLE 8 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "HEALTH AND SAFETY"; AMENDING CHAPTER 8.12 ENTITLED "UNDESIRABLE VEGETATION CONTROL", AMENDING SECTION 8.12.040; AMENDING SECTION 8.12.070; AMENDING AND RENUMBERING SECTION 8.12.080, 8.12.090 AND 8.12.100; AMENDING SECTION 8.12.110; ADDING A NEW SECTION 8.12.120 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL BILL NO. 13-16 ORDINANCE NO. 13-16

AN ORDINANCE ESTABLISHING THE BUTTE UPTOWN URBAN RENEWAL AREA, CREATING THE BUTTE UPTOWN URBAN RENEWAL DISTRICT AND ADOPTING THE BUTTE UPTOWN URBAN RENEWAL DISTRICT PLAN WITH A TAX INCREMENT FINANCING PROGRAM PURSUANT TO TITLE 7, CHAPTER 15, PART 42 AND 43 OF THE MONTANA CODES ANNOTATED.

SECTION 4 ORDINANCES SECOND READING

1. 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.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 13-14, Ordinance No. 13-14 be placed on second 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 5 ORDINANCES AND RESOLUTIONS FINAL READING

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.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Resolution No. 13-71 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. 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.

Commissioner Foley stated the following:

- ❖ This was not brought forth by Council but by an independent body.
- ❖ We will not stop the debate on this.
- ❖ It has already divided the community.
- ❖ The problems being presented is what Uptown Butte is about.
- ❖ He does not think the issues are at the degree being presented.
- ❖ Where is the data of arrests of what occurs before 2 am.
- ❖ The Noise Ordinance was directed at a specific issue where this ordinance does not.
- ❖ He challenged those who say this hurts the economic possibilities of Butte.
- ❖ This ordinance will not change the consumption of alcohol.
- ❖ This will not address the actual problems that are occurring.

Commissioner Morgan stated the following:

- ❖ He rode with a Butte-Silver Bow officer on an evening from 9:30 pm – 3:30 am.
- ❖ He is amazed at what happens after 10 pm.
- ❖ He did see issues throughout the city.
- ❖ He saw firsthand what the police do and their issues.

Commissioner McDonough stated the following:

- ❖ He has received phone calls on both sides of this issue.
- ❖ Police man-power is more important than ordinances.
- ❖ Not opposed to LED to curbing the problem.
- ❖ He believes the man-power is more effective than ordinances.

Commissioner Henderson read a letter from Don Peoples. (The letter is on file in the Clerk & Recorder's Office)

Commissioner Fisher stated the following:

- ❖ He opposes the ordinance.
- ❖ The negativity that has occurred is from the proponents of this ordinance.
- ❖ When you have to cut someone down to look good, you have lost.
- ❖ After one year of being on Council, the big issues have been this ordinance and the Brincks/Deluxe Buildings.
- ❖ He then said, "Hello".

Commissioner Moodry stated the following:

- ❖ He does not condone the actions occurring in Uptown Butte.
- ❖ He does not share the optimism that Sheriff Lester has in how this ordinance will help.
- ❖ He fully supports any ordinance that has documented data showing it will help.
- ❖ This ordinance does not bridge the gap to fix this problem.

Commissioner Andersen stated the following:

- ❖ He agrees with most of what has been said tonight.
- ❖ But this is a small piece of a puzzle that will help.
- ❖ 15 to 20 years ago was a different time.
- ❖ This ordinance is not meant to solve all the problems occurring.
- ❖ He hopes it will get people off the streets.

Commissioner Palmer stated the following:

- ❖ This ordinance came about by business people in Uptown Butte two years ago.
- ❖ The Chairman of the ordinance introduced this.
- ❖ This is not a cure all but it is a step towards change.
- ❖ This will help with the investors.

Keenan Fitzpatrick, Boy Scout Troop 1608, stated the following:

- ❖ He is a member of TASK.
- ❖ They despise drug and alcohol use in the community.
- ❖ He is supporting this ordinance.
- ❖ It will help keep kids from drinking and driving in their teenaged years.

Commissioner Fisher stated no matter how this vote goes, he personally hopes the people who put this forward have the same fight to get a box store built on Harrison and a couple of chain-restaurants in Butte to get people off the interstate.

It was moved by Commissioner Morgan and seconded by Commissioner Andersen that Council Bill No. 13-9, Ordinance No. 13-9 be placed on final reading and be passed, having been deemed read at length. The motion carried by a roll call vote of 7 yea and 5 nay. Commissioners Fisher, Foley, Moodry, Shaw, and McDonough voted nay.

**3. 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 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 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 12 yea and 0 nay to suspend the rules for the purpose of passing Council Resolution No. 13-73 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. 13-73

A RESOLUTION ACCEPTING THE DONATION OF A CERTAIN PARCEL OF REAL PROPERTY DESCRIBED AS BLACKTAIL CANYON ROAD AS SHOWN ON CERTIFICATE OF SURVEY NUMBER 986A-RW, CONSISTING OF APPROXIMATELY THREE POINT FIVE ONE (3.51) ACRES, LOCATED IN SECTION FIFTEEN (15), TOWNSHIP TWO (2), RANGE SEVEN (7) WEST, P.M.M. BUTTE-SILVER BOW, MONTANA FOR THE PURPOSE OF ASSURING THAT BUTTE-SILVER BOW COUNTY HAVE MORE CONTROL OVER THAT

PORTION OF BLACKTAIL CANYON ROAD IN ORDER TO MAINTAIN THE ROADWAY, INCLUDING ANY FUTURE UTILITY WORK THAT MAY NEED TO BE DONE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 13-73 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.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

Tom Malloy, 2901 Harvard Avenue, Butte, MT, stated the following:

- ❖ Trying to organize a Special Event.
- ❖ The Special Event is a Winter Solstice Party.
- ❖ Trying to make this official with Council's approval and all the proper permits.
- ❖ There will be a bonfire.

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 9:20 p.m.

MATT VINCENT
CHIEF EXECUTIVE

ATTEST:

CLERK & RECORDER