

# MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS FOR DECEMBER 18, 2013

The Regular Meeting of the Council of Commissioners was called to order Wednesday, December 18, 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, *absent*

## STAFF PRESENT

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

## PRAYER

Commissioner Henderson said the prayer.

## PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA

Faith Deway, 1028 Dakota Street, stated the following:

- ❖ Would like to express her comments regarding the anti-discrimination ordinance.
- ❖ You cannot look at someone and be able to tell if they are gay or not.
- ❖ She does not feel this is a problem in Butte.
- ❖ She would like to see statistics on the problems occurring.
- ❖ She recently heard about the Oregon bakery who did not bake a wedding cake for a gay wedding.
- ❖ The bakery's rights were infringed upon and people should not be forced out of their businesses due to their beliefs.
- ❖ She feels this is unconstitutional and unenforceable.
- ❖ She feels we do not need this law.

R. Edward Banderob, 2601 Grand Avenue, stated the following:

- ❖ His comments are in regards to Communication Nos. 13-756 and 13-757.
- ❖ He wanted to thank Council for their consideration on these communications.
- ❖ He hopes the time needed will be taken to wait for the Parks and Recreation Department's recommendations.
- ❖ He hopes Council will take Mr. Ringsak on his offer to come before Council and inform them of the comprehensive greater Butte tourism promotion program being worked on.

John Cummings, 1828 Whitman Avenue, stated the following:

- ❖ Thanked all for their efforts.
- ❖ Public safety is a priority.
- ❖ We need to stop the prejudice and have acceptance.
- ❖ The Missoula-style ordinance is the better choice.
- ❖ The Helena-style ordinance could possibly make bathrooms less safe for trans-gender peoples.
- ❖ LGBTQ does not have a higher percentage of criminals.
- ❖ Implementation is another concern he has.
- ❖ Mike Mansfield, from Butte, filibustered for 52 days for civil rights law.
- ❖ Today, trans-gender people use the restrooms and do not want to cause issues.
- ❖ There are probably hundreds of trans-gender people in Butte who do not want to have issues with restrooms.

Jen Caves, 1123 Sampson Street, stated the following:

- ❖ As a woman, she does not take offense with the restroom issues.
- ❖ Has used the men's restroom and not been stopped.
- ❖ The locker room issue is not an issue and should not matter.

Tracy McDonald, 406 West Granite, stated the following:

- ❖ If it does not touch your family, it is hard to understand.
- ❖ She has a trans-gender daughter.
- ❖ She has experienced attacks due to this.
- ❖ She would like to see fairness, regardless of who you are.
- ❖ She was ignorant to all this until it came to her family.
- ❖ When it is your child, you want them to have the same rights you have.

Sandy Vansilse, United Congregation Church, stated the following:

- ❖ This is not a pro-gay law.
- ❖ This allows for the same rights for everyone.
- ❖ This gives everyone equal rights.
- ❖ She feels this needs to include the provisions for restrooms.
- ❖ Thanked Council for their consideration.

Helen Cummings, 1828 Whitman Avenue, read a letter from her daughter regarding a conversation between her and her grandmother. She also stated the following:

- ❖ This ordinance is to put LGBTQ on the same playing field as everyone else.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF DECEMBER 4, 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 December 4, 2013.*

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

None.

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

**13-780 Chief Executive Matt Vincent, requesting Council's concurrence in the confirmation of Mr. Kolby Carter as a probationary Entry Level Firefighter.**

Chief Lasky presented to Council probationary fire fighter Kolby Carter.

*It was moved by Commissioner Foley, seconded by Commissioner Ralph and passed by a unanimous verbal vote to concur with the request in Communication No. 13-780 and confirm the appointment of Mr. Kolby Carter as a probationary entry-level firefighter with the Butte-Silver Bow Fire Department.*

## **CHIEF EXECUTIVE REPORT**

Chief Executive Vincent reported the following:

- ❖ Wished Council a Merry Christmas.
- ❖ Attended a summit in Washington D.C.
- ❖ Butte was one of the 44 communities to be invited to the summit.
- ❖ He made good connections at the summit.
- ❖ Chief Executive Vincent was mentioned by name at the summit.
- ❖ He stated we have an opportunity to step up and deliver.
- ❖ This is all happening through an initiative through the Obama administration.
- ❖ Phase 2 proposals were announced and are due by March 15, 2014.
- ❖ It is his intention to have names for the new HR Director and Public Works Director at the next Regular Meeting on January 8, 2014.
- ❖ He is going to move forward with the selection of a new Parking Director with a revised job description by the end of the week.
- ❖ There will be a systematic and financial audit of the parking department.
- ❖ New website should be rolled out by mid-January.
- ❖ There is a new ice skating rink at the Original Mineyard.

## **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 Moodry segregated Communication Nos. 13-769 and 13-771.

Commissioner McDonough segregated Communication No. 13-774.

*It was 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 21, excluding items 8, 10, and 13.*

### **Segregation - Communication no. 13-769**

**Mark Moodry, Butte-Silver Bow Commissioner, District No. 1, requesting Council review the current Butte-Silver Bow policy pertaining to the donation of sick leave to the sick leave grant program and to amend the policy as necessary.**

Commissioner Moodry stated this is in reference to the sick leave program. He stated the current policy has not been updated since 1980 and feedback from department heads is welcomed. He also stated all are welcomed to the Personnel Committee Meeting scheduled for 6:30 pm on Thursday, December 26, 2013.

*It was moved by Commissioner Moodry, seconded by Commissioner Fisher and passed by a unanimous verbal vote to concur with the recommendation and refer the communication to the Personnel Committee.*

### **Segregation - Communication No. 13-771**

**David Schultz, Operations Manager, Water Utility Division, Butte-Silver Bow Public Works Department, requesting Council's approval of an amendment to a professional services agreement with HDR Engineering.**

Commissioner Moodry stated that at looking at the amendment, under phase 2 tasks, there are only 8 costs breaks and a lump sum under design. He stated a previous complaint was the lump sum was not broken down into individual tasks and he would like to see it broken down.

Mr. Schultz stated he did have a breakdown of the individual cost items and offered to make copies and provide it to Council.

Commissioner Moodry stated this would satisfy his concerns. Mr. Schultz stated this was Exhibit D and he would make it available to Council.

Commissioner Moodry asked if this could be held for a few minutes to be able to see the data before they voted on it. Chief Executive Vincent stated they would revisit this in a few minutes.

#### **Segregation - Communication No. 13-774**

**Michelle Adams, Wells Fargo Home Mortgage, requesting Council's acceptance of the donation of property at 1249 East 1<sup>st</sup> Street, Butte, Montana and for the Chief Executive to execute all the documents regarding the donation.**

Commissioner McDonough stated he segregated this communication to discuss this issue. He asked Jim Jarvis to speak on it.

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

- ❖ This property is considered a historic resource in the community.
- ❖ Wells Fargo offered to give the property away when told of the historic ordinance.
- ❖ Wells Fargo has offered to give the property to Butte-Silver Bow.
- ❖ Wells Fargo also increased the offer to add \$15,000 with the property.
- ❖ Wells Fargo is hoping for a decision tonight.

Chief Executive Vincent asked if the \$15,000 has to be spent on the property. Mr. Jarvis stated Wells Fargo said it does not. Mr. Jarvis stated the house is in fair to poor condition and needs work. He also stated if the donation is accepted, the money can be used in anyway.

Commissioner Henderson stated the property looked bad and asked why they could not tear it down when they wanted to.

Mr. Jarvis stated the following:

- ❖ There is a process to go through to get an application for a demolition permit.
- ❖ It can be donated to a local non-profit but that did not work.
- ❖ Wells Fargo looked at selling it and that did not work.
- ❖ It can be accepted as a donated piece of property and offered in a developer's packet.

Commissioner Henderson asked if it would be put out in a developer's packet. Mr. Jarvis stated yes. He stated Butte-Silver Bow has no intention of owning this for a long period of time and is confident someone would purchase the property.

Commissioner Shaw stated she was at the Land Sales Committee meeting when this came up and this is possibly problematic due to it sitting there for many years. She recommended they move forward with this.

Commissioner Palmer stated this is was the reason he has been pushing the building inventory. He asked what has gone wrong with the Community Enrichment Program to let this house go this far.

Mr. Jarvis stated his recollection was this is not in the inventory listing and the building does have newer windows and siding.

Chief Executive Vincent asked how this house contributed to the historic district. Mr. Jarvis stated in the 1980's, the whole community was canvassed with vague criteria with approximately 10% of the houses on the hill to make them eligible for the historic district.

Commissioner Morgan stated the following:

- ❖ Here is a property where they need to look at the facts.
- ❖ The bank has the title and has decided it is not worth selling it.
- ❖ They are trying to pass the buck onto Butte-Silver Bow.
- ❖ Wells Fargo is not going to let the property go on taxes and this property is not Butte-Silver Bow's issue or responsibility.

Commissioner Andersen stated the following:

- ❖ We have not had much luck with the developer's packets.
- ❖ We have had luck with the developer's program.
- ❖ This is going to take work to clean up.
- ❖ Community Enrichment should have been involved previously with this property.
- ❖ The money being offered could be used on the property.

**It was moved by Commissioner Andersen and seconded by Commissioner Shaw to accept Wells Fargo's offer of taking control of the house along with the \$15,000 and place Communication No. 13-774 on file.**

Commissioner Fisher stated the following:

- ❖ Probably was not inventoried because it was not in arrears of their taxes.
- ❖ Bozeman is looking at demolition by neglect.
- ❖ This would do well for us to take it over.
- ❖ But when historic preservation denies demolition to one person, it does not look good for us.
- ❖ We are getting in area where we need to be careful with people bearing gifts.
- ❖ Concerned we will take the building and demolish it and Wells Fargo will come back at us.
- ❖ Recommend we pass it by.

Commissioner Moodry stated he was on board with Commissioner Morgan and this is not Butte-Silver Bow's problem. He stated Wells Fargo is not going to let this go in arrears and they need to deal with it. He asked if there is mold or asbestos and could open a huge can of worms that \$15,000 is hush money to go with it. He stated it is not our problem.

Commissioner Foley stated Wells Fargo can appeal to Council if they were denied demolition. He stated he did not think they want to get involved in this and he has a similar issue at the moment in his own district.

Commissioner Morgan stated they should forward the demolition procedure to Wells Fargo.

Commissioner McDonough stated the following:

- ❖ This is in his district and would caution there are several properties in this condition in District 8.
- ❖ They need to have discussions with the Health Department and the Community Enrichment Department on the health hazards of these properties.

County Attorney Joyce stated she wanted to clarify the use of the funds. She stated if this was accepted, the funds would be then considered unanticipated revenue and would have to follow procedure to use them.

Commissioner Palmer stated he hoped Community Enrichment would look at the pictures tomorrow and they will be talking to Wells Fargo if the motion passes.

*A sub-motion was made by Commissioner Foley, seconded by Commissioner Moodry and passed by a roll call vote of 9 yea and 2 nay to deny the request of Communication No. 13-774 and Place it on File. Commissioners Andersen and Shaw voted nay.*

**Communication No. 13-771 Continued:**

Commissioner Moodry stated he received the requested information from Mr. Schultz and the information does provide more detail.

*It was moved by Commissioner Moodry, seconded by Commissioner and passed by unanimous verbal vote to Concur with the original recommendation of Communication No. 13-771 and place it on file.*

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

Communication No. 13-780 was addressed at the beginning of the meeting.

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

**1. RESOLUTION NO. 13-75**

A RESOLUTION AUTHORIZING AND APPROVING THE PURCHASE OF CERTAIN PARCELS OF REAL PROPERTY OWNED BY RALPH W. STODDEN AND GERTRUDE H. STODDEN TESTAMENTARY TRUST LOCATED IN SECTION 36, T3N, R8W, BUTTE-SILVER BOW, MONTANA (PARCEL NO. 1422300) FOR THE PURPOSE OF CONSTRUCTION OF THE BASIN CREEK WATER TREATMENT PLANT IN ACCORDANCE WITH THE LAWS OF THE STATE OF MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**2. RESOLUTION NO. 13-76**

A RESOLUTION AUTHORIZING AND APPROVING THE DONATION BY THE BUTTE-SILVER BOW PARKING COMMISSION TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, REAL PROPERTY DESCRIBED AS ALL OF LOTS 19, 20, 21, AND 22 OF BLOCK NUMBERED 28 OF THE ORIGINAL TOWNSITE OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, DESIGNATED AS PARCEL NO. 2003150 (LOT 19) AND PARCEL NO. 2003200 (LOTS 20-22) FOR THE PURPOSE OF ALLOWING THE CITY-COUNTY TO FULFILL ITS OBLIGATION UNDER A MEMORANDUM OF UNDERSTANDING ENTERED INTO BETWEEN THE CITY-COUNTY AND NORTHWESTERN ENERGY CORPORATION CONCERNING THE ABOVE-DESCRIBED PROPERTY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**3. COUNCIL BILL NO. 13-17  
ORDINANCE NO. 13-17**

AN ORDINANCE TO ENTITLED "ILLEGAL DISCRIMINATION" AND TO BE NUMBERED CHAPTER 5.68 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION 4 ORDINANCES AND RESOLUTIONS  
FINAL READING**

**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.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 13-15, Ordinance No. 13-15 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.*

**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.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 13-16, Ordinance No. 13-16 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.*

**3. RESOLUTION NO. 13-74**

A RESOLUTION CERTIFYING THE RESULTS OF THE CANVASS OF VOTES CAST IN THE MUNICIPAL GENERAL ELECTION HELD IN THE TOWN OF WALKERVILLE HELD ON NOVEMBER 5, 2013; DECLARING ELECTED THOSE INDIVIDUALS HAVING THE HIGHEST NUMBER OF VOTES CAST FOR MUNICIPAL OFFICES AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Resolution No. 13-74 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 1 nay. Commissioner Moody voted nay.*

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

JP Gallagher, 2924 State Street, Principal of Whittier School, stated he was in support of a stop sign at Sherman and Yale Avenues.

**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 9:00 p.m.

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

**ATTEST:**

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**CLERK & RECORDER**