

**MINUTES OF THE REGULAR MEETING OF
THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
FOR JANUARY 16, 2019**

ROLL CALL

In attendance: Cindi Shaw, Brendan McDonough, Bill Andersen, Jim Fisher, John Sorich, Dan Callahan, Shawn Fredrickson, Josh O'Neill, Eric Mankins, John Morgan, Michele Shea, Dan Olsen

Also, in attendance: Jason Parish, Laura Sargent, Eileen Joyce, Danette Gleason and Jennifer Bradford

Absent: None

PRAYER AND PLEDGE

Led by Commissioner McDonough

PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA

R Edward Banderob- Communication 19-19

- Thank you for recommending this moves forward
- I do not see R Ed Banderob's name on letter.
- The US Supreme Court recognizes GNCDC as a corporation
- IRS recognizes Greeley GNCDC as a
- Does not understand why the BSB does not recognize the GNCDC as a corporation.
- We have been told that you are outside the district, is a normal function
- In 2010 we were told, they may have to dig up the center of the Silver Bow to make a settle.
- We not have a 12-block storm project, we do not have a storm water.
- We have been waiting for BSB to implement.
- We now have a letter from the EPA, that Greeley neighborhood may be included in the Westside soils.
- The stormwater control may no longer be just a normal govt. function, but now becomes as a Superfund issue.
- We are asking with a comprehensive GN area stormwater master plan.

Steve McGrath: Communication 19-19

- Representing the GNDC INC.
- Wanted express appreciation to the positive response to our last series of Communications.



- We are making progress.
- We are responsible for storm water control included in Westside soils.
- If that is the case Superfund monies would be used to solve.

Abigail St Lawrence: Communication 19-23

- we had requested a 3-year extension.
- This is an 84-lot subdivision.
- Have been in communication with Planning.
- It is correct that our sewer expires in April.
- We are in the process of getting an extension through DEQ.
- The major issue is the initial right of way, that Copper Fox has taken on.
- In negotiations with land owner.
- Run into some road blocks. Significant surprise with MDT.
- Commits to coordinate with DEQ would ask for 3-year extension so that it can be done right and not have to come back.

APPROVAL OF THE MINUTES

Regular Meeting Minutes January 2, 2019

It was moved by Commissioner Morgan, seconded by Commissioner Shaw and passed by a unanimous verbal vote to approve the minutes of the Regular meeting of January 2, 2019.

Chief Executive Palmer:

- Recognized some Boy Scouts working on Merit badges in the audience.
- Commented on the railroad tracks on Utah creating a speed bump. DOT has committed to fix that in the Spring.

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

Commissioner Shaw segregated Communication No. 19-27.

Commissioner Morgan segregated Communication No.19-13, Communication No. 19-21 and Communication No. 19-28.

Commissioner Andersen segregated Communication No.19-15.

Commissioner McDonough segregated Communication No.19-23

It was then moved by Commissioner Morgan, seconded by Commissioner Shaw and passed with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4, and Section B, Items 1 through 20, with the exception of, #3. 19-13, #5. 19-15, #11. 19-21, #13. 19-23, #17. 19-27 and #18. 19-28.



ITEMS NOT ADDRESSED ON THE AGENDA

CHIEF EXECUTIVE'S REPORT

SECTION 1 CONSENT AGENDA

3. COMMUNICATION 19-13

Mark Neary, Public Works Director requesting the Council of Commissioners authorize the Chief Executive to sign the contract with Modern Machinery Company for the Force Feed Loader.

Commissioner Morgan-Communication 19-13

- Mark asked that this be taken off the agenda, however it had already been published.
- There was an issue with the maintenance agreement in the contract.
- We will note and place on file and they will come back with another communication at that time.

It was moved by Commissioner Morgan, seconded by Commissioner Shaw and passed by a unanimous verbal vote to note Communication 19-13 and place on file.

5. COMMUNICATION NO. 19-15

Karen Sullivan, Health Officer requesting the Council of Commissioners authorize the Chief Executive to sign the MOA between the Montana Primary Care Association, Inc. and the Health Center Control Network Participating Community Health Centers (HCCN) with the Butte-Silver Bow Health Department for the purpose of increasing the number of health centers and other entities to improve patient engagement.

Commissioner Andersen-Communication 19-15

- How this will affect our services.

Karen Sullivan: Heath Officer

- Value based payment from the Federal government, over the next decade or two will be looking for quality in order for the govt to reimburse the provider.
- Need to prove our quality.
- Payment will be based on that in the future.
- This network is being setup to test this.
- Network of Community Health Centers
- We want to be involved as a PHD we are being asked to work on current data.

Commissioner Anderson:



- If I read this correctly there are 14 participants
- It reads concurrent for physical year 2016-2019, why is it post-dated?

Karen Sullivan:

- They are current physical year; Community Health Centers is funded under the Health Resource and Services Administration (HRSA) of the Federal government. They are currently funded under that scenario.
- NPCA said there are 17 Community Health Centers in Montana and then there are several more satellite clinics.

Commissioner Andersen:

- So, this year is correct?

Karen Sullivan:

- Yes, they will be reimbursed probably for the next 3 years for 2016.

Commissioner Andersen:

- The budget is going to be tight, is there going to be more pressure on us.
- Is this going to be a positive or negative with the budget

Karen Sullivan:

- There is no cost to the Health Department
- If there is administrative time being put into it, that will be my time.
- This is a partnership that we were asked to participate in as a non-Community Health Center.
- The value is, we are reacting to data that is 3 years old.
- This will allow for real time data to be addressed.

It was moved by Commissioner Andersen, seconded by Commissioner Shaw and passed by a unanimous verbal vote to concur with Communication 19-15 and place on file.

11. COMMUNICATION NO. 19-21

Rick Phillips, Masonic Temple Board Member requesting Council of Commissioners consider reassessing the 2018 property taxes for the Masonic Temple at 314 W Park Street.

Commissioner Morgan-Communication 19-21

- Communication was referred to COW to get answers to some questions.

Rick Phillips:

- Is 1 of 6 board members
- Masonic Temple has been tax exempt since 1990
- Legislature did something where we had to be reevaluated this past year
- Some things slipped through cracks.
- Our charter had not been turned into Dept. of Revenue. They have accepted our bylaws instead of our Charter.
- Linda Sather, Dept of Revenue is the one recommended we bring this before the Council.
- Difference between non-tax exempt and exempt is \$8,000.



- She has adjusted 2019 but was unable to go back to 2018.

Commissioner Morgan:

- I don't have any questions regarding your tax exemption status
- More concerned about procedure.
- What can we do?

Danette Gleason-Finance & Budget Director:

- There is MT statute restricts the limitations on tax refunds.
- Dept of Revenue is responsible for assessment piece.
- All BSB can do is refund our portion of the tax
- Recommend we continue to hold while we further investigate with the County Attorney's office what laws we follow to rebate these taxes if Commissioners decide to do that.
- Has been non-exempt. they pay just for services.
- In 2015 session that Dept of Revenue decided that tax exempt entities had to reapply for that status, every two years you have to apply.
- Takes a little further investigation on our part.

Commissioner Morgan:

- Timing wise are we okay with Mr. Phillips?
- What does our timeframe look like?

Danette Gleason:

- Related to tax timelines, there is a 5- 10 year.
- We have plenty of time before the 2nd half of taxes are due to resolve this.

Commissioner Morgan:

- Will there be penalties being assessed as we work through this.

Danette Gleason:

- If it is determined that they have to pay, yes there will be penalties assessed.
- Penalties and interest are a little bit easier to waive than taxes
- Worth the time to make sure we do this appropriately to avoid further problems.

Commissioner Shaw:

- I keep hearing refund, but we would just make the appropriate adjustment, correct?

Danette Gleason:

- Its abatement, but not abatement on property value
- We do not have the authority as a local government to abate the value.
- Will have to continue to work with Dept of Revenue to resolve
- Just abatement based on local government mills assessed
- Not sure we have the authority abate the school district, the other state mills that we levy on behalf of schools and then the 6-mill university

Chief Executive Palmer:

- Shouldn't it be referred to tax appeal board?



- Would that not be the proper procedure?

Lori Baker-Patrick-Treasurer

- Dan Fisher, Assessor did tell us that we are past that point
- Mr. Phillips was told by Helena that the best route would be to bring it before the Council of Commissioners.

It was moved by Commissioner Morgan, seconded by Commissioner Shaw to refer Communication 19-21 to the Committee of the Whole.

Anything on the Question:

Commissioner Sorich-

- Keep Masonic Temple people in the loop.
- Sounds like there is still some confusion as to what they are going to have to pay

Commissioner Fisher:

- Have already gone to the state, state sent them to the Commissioners.
- They have been exempted since 1990,
- Small group of people that don't meet that often.
- There are extenuating circumstances that this happened
- Go back to where they were years ago taxes paying their \$1300 per year.
- We should look at this, go back to where they are.
- Not try to stick these people with taxes.
- The Masonic Lodge does not have the \$9300 to pay taxes
- This could force us to have another empty building on our tax rolls if this continues.
- Side with Masonic Temple that they deserve a break

Danette Gleason:

- There is no way any of us are trying to prevent the right due process to the refund,
- We have to comply with the law.
- When I make payments, I seek the County Attorney's input if I think it is not within our laws
- I am doing my job to make sure we are following something concrete.

Passed by a unanimous verbal vote

13. COMMUNICATION NO. 19-23

Lori Casey, Planning Director requesting Council of Commissioners conditionally approve recommendation for a one-year extension of the preliminary plat of Copper Fox Estates.

Commissioner McDonough-Communication 19-23



- Would like a staff to report as to why the recommendation is 1 year after the request was for 3 years.
- What were the justifications.

Lori Casey-Planning Director

- Recommendation was for 1 year because of several things that were raised in the letter.
- They have completed most of their recommendation, there are several pending. They only have one to complete, that is to acquire the necessary right-of-way.
- State law allows them to come back for other exemptions. We felt 1 year was a sufficient time.
- What was not mentioned, was last year they wanted to get going with excavation, that required a storm water bond
- We are holding a sizable bond that the contractor put up that expires in August 2019.
- Under the sub-division regulations, we felt that 1 year would be a good timeline.

Commissioner McDonough:

- Realize we have impending dates
- All for redevelopment in Butte
- Looking for reason as to why we would we recommend 1-year versus 3-years
- One-year seems reasonable if they can come back and reapply.
- Could you give me some clarification of the public right-of-way and easement from a private landowner?

Lori Casey:

- Within the subdivision regulations.
- One of the standards is roadway width.
- We do not have a 64' right-of-way.
- Developers said they would work with the owner and acquire that right-of-way. This was the proposal brought forth by their developer through their preliminary plat application.

It was moved by Commissioner Morgan, seconded by Commissioner McDonough to concur with Communication 19-23 and place on file.

Anything on the Question:

Commissioner Fisher:

- Meadowlark is a county road,
- Why don't we have a SID
- This creates another legal issue.



- Need more explanation.

Chief Executive Palmer:

- Meadowlark has been on the other people's property for quite some time
- We have been using it
- In their application said they would acquire the property and make it 60 ft width.
- Have a lot of road that don't live up to our standards.
- It's the way it was done years ago.
- They did commit to buying the right-of-way in their preliminary plat

Commissioner Fisher:

- Ms. St Lawrence explain the update of what the difference between 1-year and 3-year plan.
- You see where we stand as a Commission

Abigail St. Lawrence: Attorney

- That is part of the conversation we have been having with County Attorney and the Planning Department.
- The developer did say they would acquire the right-of-way
- Why it is not already maintained as a county road.
- Copper Fox has said that they would make that improvement.
- The adjacent owner is proving to be difficult. that may be why BSB has not acquired it.
- Things are moving slower than thought.

It was moved by Commissioner Morgan, seconded by Commissioner McDonough to concur with Communication 19-23 and place on file.

A substitute motion was made by Commissioner Fisher and, seconded by Commissioner McDonough to hold Communication 19-23 for further review. Commissioners Olsen, Morgan, Sorich, Andersen and Callahan voted nay. Motion carried, and Communication 19-23 will be Held in Abeyance.

17. COMMUNICATION NO. 19-27

Julia Crain, Superfund Data Administrator requesting Council of Commissioners authorize the Chief Executive to sign the Professional Services Agreement between Water Words that Work, LLC. and Butte-Silver Bow for the purpose of training and improving overall communication of the Berkley Pit information.

Commissioner Shaw-Communication 19-27

Commissioner Shaw:

- Spoke with Julia, there are a lot of parts to it
- this is an awesome opportunity

Julia Crain: Superfund Data Administrator



- One of the roles I fulfill is serving as staff to the Pitwatch Education Committee.
- In last 2 ½ years, the way of information is delivered has changed.
- Due to some of attention “The Pit” receives, we see large proportion of traffic through our website.
- About 1 ½ year ago, Pitwatch undertook redesigning the website.
- Current site, which is the archived articles, serve as current events that occur with the Berkley Pit.
- One of the elements not available is a general curriculum, to understand What is the Berkley Pit? Why does it exist?, what are you looking at?
- Working with Bureau of Mines and Geology, educators at Clark Fork Watershed Education Program and other Community partners that serve on the Pitwatch Education Committee.
- Became clear that terminology is different between Superfund and the everyday person.
- One of the members recommended a training, to allow to look at your content to make sure it is directed at your audience. How to communicate your message to the general public.
- This training would serve us as we launch our website, as we revise and install our new signage at the Berkley Pit viewing stand and other Superfund related amenities in the Community, but in the also serve the larger community

Commissioner Shaw:

- This takes place on Feb 6th.
- Is open to anybody that would like to participate.
- The old PitWatch was printed every six months. When will we know when to look for updates.

Julia Crain:

- We will not be using the print version anymore
- Will be using social media to get that information out.
- Will be up to date within a day or two
- Basic content that will explain the Berkley Pit
- A timeline, a way to update the public

Commissioner Fredrickson:

- Are Montana Resources and Atlantic Richfield going to attend this training?
- Good idea to reach out to them.

Julia Crain:

- Both Montana Richfield and Atlantic participate as members of the committee, they do not have a dominant role.
- they as entities they recognize the challenges that we face in communicating this information to the public



- They see value in this training
- Commissioner Sorich:
- What funding source does this come from?

Julia Crain

- We fund Pitwatch through a trust that was provided through the settling defendants for the Butte Mine Flooding Operable Unit which is the Montana Resources and Atlantic Richfield company through their parent company British Petroleum.
- Have had those trust dollars for some time.

It was moved by Commissioner Shaw, seconded by Commissioner McDonough to concur with Communication 19-27 and place on file. It was passed with a 11/0 vote. Commissioner Andersen voted, "nay".

18. COMMUNICATION NO. 19-28

Darla McCarthy, Victim/Witness Advocate requesting Council of Commissioner's permission to submit a 2019-2020 Victims of Crime Act Grant application to the Montana Board of Crime Control. There is a local match required if awarded the grant, there is also an in-kind match calculated in with the local match.

Commissioner Morgan:

- My original recommendation for these types of Communications is to refer to Finance & Budget to make sure we have funding.
- This grant application is due tomorrow.
- County Attorney Joyce does have information on the funding.

County Attorney Joyce:

- We have had this grant in our office for over 15 years.
- Full-time Victims advocate that provides services to crime victims.
- Apologize that the numbers were not in the communication.
- It is a 2-year grant for approximately \$180,000
- Our contribution includes a hard match where we pay part of the salary.
- In-kind match where some of support staff from County Attorney's office and Deputy County Attorneys help by providing their services toward complying with the grant requirements.

Danette Gleason-Finance & Budget Director

- For last 15 years or more we have had this full-time position
- Funding comes from the MT Board of Crime Control.
- Bi-annual and a 2-year grant
- It always coincides with the year of the legislative session
- It is based on estimated numbers.
- Due before session ends



- Two years ago, we submitted for a little over \$274,000, that included 2 positions victim advocates.
- Anticipated Marci's Law, going into effect, that would have required more work on their part.
- This year's request is less, we did not put in for 2 full time positions, it is \$176, 737.
- We are anticipating around \$121,000 from the Montana Board Crime Control.
- The funding from the local government, will be \$50-\$60 thousand
- Some of that is in-kind match, we get to account time of the County Attorney and some of staff time from County Attorney's.
- Requesting about \$18-\$18.6 thousand in hard match in the budget for this year and next year.

Commissioner Andersen:

- These monies are already in the budget.

Danette Gleason:

- They are two-year grant cycles.
- That is in the 2019 budget.
- That's what she is asking for, there is going to have to be a commitment for 20-21.

Commissioner Andersen:

- So, this money has already been budget for.

Danette Gleason:

- Yes, it was in last year's budget
- It's actually a reduction, because it has been higher in years past
-

It was moved by Commissioner Morgan, seconded by Commissioner Shaw and passed by unanimous verbal vote, to concur with Communication 19-28 and place on file.

SECTION 2 ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

COUNCIL RESOLUTION 19-04

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE AMENDED PLAT OF BLOCKS 16, 25, AND 26 OF THE GILMAN ADDITION, LEGION OASIS MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION 3 SUSPENSION OF THE RULES FOR FINAL PASSAGE



It was moved by Commissioner Morgan and seconded by Commissioner Shaw and passed by a verbal vote of 12 year and 0 nay, to suspend the rules for the purpose of passing Council Resolution 19-01 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.

COUNCIL RESOLUTION NO. 19-01

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE FROM THE NON-TAX SUPPORTED LOCAL DRUG FORFEITURE AGENCY FUND TO THE BUTTE-SILVER BOW LAW ENFORCEMENT DEPARTMENT; ALLOCATING LOCAL DRUG FORFEITURE FUNDS TO THE BUTTE-SILVER BOW LAW ENFORCEMENT DEPARTMENT TO FUND THE PURCHASE OF (1) ONE POLICE VEHICLE AND EQUIPMENT EXPENDITURE ACCOUNT AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Morgan, seconded by Commissioner Shaw that Council Resolution No. 19-01 be placed on final reading and be passed, having been deemed fully read at length. The motion passed with a roll call vote of 12 yea and 0 nay.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

CALENDAR OF OTHER MEETINGS AND EVENTS

ADJOURN

Meeting was adjourned at 8:45p.m.

Dave Palmer, Chief Executive

ATTEST:



Clerk & Recorder



City and County of

Butte-Silver Bow