

**MINUTES OF THE REGULAR MEETING OF  
THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS  
FOR APRIL 17, 2019**

**ROLL CALL**

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

Also, in attendance: Dave Palmer, Eileen Joyce, Danette Gleason, Jason Parish, Colleen Safratowich and Jennifer Bradford.

**PRAYER AND PLEDGE**

Led by Commissioner McDonough

**PUBLIC COMMENT ON ANY ITEMS ON THE CONSENT AGENDA**

- R Edward Banderob, GNCDC Inc., HMTF  
-Communication 19-176-To Be Read and Acted Upon
  - Does not like to comment on presentations before presentations.
  - Support MRs request for the expansion of the Yankee Doodle expansion, as long as they show a good faith effort to control the toxic airborne metal laden dust and the storm water run-off.
  - Remind this Council again, that “you are responsible for the health of your citizens”.
  - Evidence shows dust coming from the mining operation must now be considered a possible human hazard.
  - For Council to support an expansion without a commitment from them to control dust and storm water, might be considered by a Court of Law as negligence.
  - Will not let our concerns go ignored for another 50 years.
  - There was no letter attached to the agenda from MR, this may be a violation of the open policy rule.
  - Suggests that Council hold a Special meeting for Community to scrutinize the letter before signing and submitting.
  - Communication 18-550



- What is the progress on it? Request a report on the dust monitoring.
- Elected officials do not seem to be concerned about the Greeley Community, GNCTF will submit a communication requesting that report.

## **APPROVAL OF THE MINUTES**

*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 April 3, 2019.*

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

### **SUSPENSION OF THE RULES**

*It was moved by Commissioner Morgan and seconded by Commissioner Shaw and passed by a verbal vote of 12 yea and 0 nay, to suspend the rules for the purpose of adding Communication 19-178 to the April 17, 2019. The reason for the Suspension of the Rules is that the letter was submitted after the closure of the agenda deadline, however the Public Advertisements had already been published.*

### **COMMUNICATION NO. 19-178**

requesting Council of Commissioners allow time on the April 24, 2019 agenda for a Bid Opening for the purpose of opening bids for Asphalt Oil for the 2019 season.

### **CHIEF EXECUTIVES REPORT**

- This week is the National Public Safety Telecommunications Officers week. The 911 Communication Officers are always the first responders. They get the call first. If you see one of them, thank them.
- Governor Bullock did sign Senate Bill 243, the road maintenance fees. We will move forward. There are more options when it comes to road fee assessments. It is a good thing for Butte.

If any of the Commissioners have any questions regarding the Superfund, this is the time we will answer those questions.

**Commissioner Olsen:**



What I have seen in the media is questions and concerns about the waiver that is part of the agreement. Staff could tell us why we have it, why we need it, what it involves and anything else that would help people understand.

**Mollie Maffei- Assistant County Attorney**

- The EPA has proposed to waive state water quality standards to the federal Standard.
- State water quality are for Superfund are not for discharge of the Butte Treatment Lagoons
- They are going to waive copper and zinc for acute happenings
- This waiver is from state to federal standards.
- There are 42-46 states that follow the Federal standards, it is common
- This waiver as Nikia Greene has discussed with you has been researched for approx. 4 years.
- Has not been as issue on the Deer Lodge and the Missoula for the waiver of those standards.
- State standards are more stringent.

**Eric Hassler- Superfund**

- Not unusual
- Montana state standards are very stringent
- Other cities outside Butte are having the same metal issues outside Superfund.
- Keep in mind this is for acute, meaning during storm events.
- Becoming more apparent that it is technical impractical
- Exceeding the metal level standards before entering the site.

**Olsen:**

- One of the things I find interesting about the difference between EPA and the MT State standard is total versus dissolved.
- Can you tell us what that really means and how the catch basins will help with that?

**Hassler:**

- Dissolved are materials that are held within the matrix of the water simply part of the water
- Total considers the particulate, the solids that will drop out
- Under total that is where the catch basins come in, they will dissolve with retention time.

**Commissioner Shaw:**

- Water standards for copper and zinc for only Superfund issues.
- We are lowering the standards?

**Hassler:**

- It is a different standard.
- Still protective of human health and environment.
- Different realm of sampling and analysis.



**Shaw:**

- Without clarifying that, some would think we are accepting a lower standard.
- We are not lowering the standard, when people think of ground water, drinking water anything along that line.

**Hassler:**

- Wouldn't say accepting a lower standard; a less rigorous
- Doesn't affect our drinking our water, we do not pull from any local sources in the city.
- We don't use ground water, that is a misperception amongst Butte residents
- We are bringing it in from Basin Creek and the Big Hole
- Superfund aspect has no effect on our drinking water.

**Commissioner Anderson:**

- When we use a different standard that allows a higher concentration and the particulate that was suspended will fall off into the lagoon pond or stream, what is going to happen over time?
- How are we going to mitigate the higher levels in long term?

**Hassler:**

- Part of the Long-term O&M involved with all aspects of Superfund
- Currently being designed for a 20-year sediment compacity
- We would have to go in and remove the sediment as part of our own O & M agreement with Atlantic Richfield
- Should not affect the effectiveness of the ponds, the holding area is part of the design.

**Andersen:**

- You said 20-year plan.
- What if we have a 100 -year storm?
- How will this affect things further down the road?

**Hassler**

- Would be pure speculation?
- Everything is designed for 25 years.
- Could add to the frequency of how soon and often we would have to clean out the drain basins.
- They are designed to by pass to avoid catastrophic failure.
- They will have measuring places that will allow us to know when they would need to be excavated.

**Commissioner Fisher:**

- I think that the plant would be a lot better
- The ponds or catch basins are a band aid.
- Don't think they are a true fix.

**Chief Executive Palmer**

- We would still need the catch basins (ponds) with a plant.



**Hassler:**

- You can't design a treatment plant to catch all the water at once.
- We would still have to have the ponds (catch basins).

**SECTION 1 BID OPENINGS, PUBLIC HEARINGS, AND/OR PRESENTATIONS**

**1. BID OPENING**

**COMMUNICATION NO. 19-101**

Jason Parish, Public Information Officer requesting Council of Commissioners allow time on the April 17, 2019 Regular Meeting Agenda for a Bid Opening for the Government Software Solution.

**There was proof of publication for Sections 1, 2 and 3 and all appear to be in order.**

Bid #1- Carasoft, Reston VA.

Extended Price= \$476,306.48

Bid #2-ViewPoint Government Solutions

Total Price=\$76,049.00

Bid #3-Excella Inc.

Implementation Cost=\$86,592.00

**Chief Executive Palmer:**

Did we have an estimate on this?

**Jason Parish:**

No, historically we did not. This is for the licensing, asset management, planning solution also used for reports and inspections.

**Danette Gleason:**

This has been implemented into the budget. We had 100,000 which included implementation costs as well.

*It was moved by Commissioner Morgan seconded by Commissioner Shea to refer the bids to the IT Department and wait for a report back on their recommendation. It was unanimously passed.*

**2. PUBLIC HEARING**

**COMMUNICATION NO. 19-139**

Jeff Miller, Director Fire Services requesting Council of Commissioners allow time on the agenda for a Public Hearing on April 17, 2019 for the purpose of amending the Fiscal Year 2018-2019 Fire Department budget.

**Jeff Miller:**

The purpose is to allow public comment on the unanticipated revenue to the FY 2018-2019 budget. The source of the revenue is the State of Montana Department of Natural Resources and Conservation and the State of California more specifically Cal-Fire. If approved the amount \$178,630.42 which would be used to satisfy wages and benefits, extrication



equipment for the fire dept and purchase equipment for wildland firefighters and safety equipment for firefighters. Wildland and EMAC deployments are where these revenues come from.

**Open Public Hearing**

Proponents: none

Opponents: none

**Closed Public Hearing**

3. PUBLIC HEARING

COMMUNICATION NO. 19-147

Karen Sullivan, Health Officer requesting Council of Commissioners allow time on the April 17, 2019 Regular Meeting Agenda for a Public Hearing for the purpose of amending the fiscal year 2018-2019 budget.

**Karen Sullivan:**

This request comes due to anticipated continuation of our Health Communities Grant. As we build Butte into a healthy community we include those with disabilities. People with chronic disease costs a lot of money. We have been working with the US CDC and Chronic Disease Directors. The Grant resulted with working with JP Gallagher at the pool, so people with all abilities can enter the pool, also the playground has an all abilities area. Inserted updates to the transportation plan have an inclusionary framework to it. Unanticipated revenue we are asking for is a small amount of money for a short amount of time. Asking for 3750 for unanticipated revenue for FY19 and will receive that same amount in FY20 that they will add to the budget. The revenues will be to film, participate in a pod cast, and asked to do increased Social Media messaging and continue our work with Health Eating, Exercising and general accessibility. In partnership with JP, we will offer fruit and popcorn for a health snack.

**Open Public Hearing**

Proponents: none

Opponents: none

**Closed Public Hearing**

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

*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 28.*



Friendly Amendment #1: Section 6 at the request of the County Attorney, Resolution 19-16 move to Section 4, Ordinances and Resolutions referred to Judiciary.

Friendly Amendment #2: Section 3 should read Mike McGivern, Vice President of Human Resources on behalf of Mark Thompson, Montana Resources.

### **SECTION 3. COMMUNICATIONS TO BE READ AND ACTED UPON**

#### 1. COMMUNICATION NO. 19-176

Mike McGivern, Vice President of Human Resources for Montana Resources, LLP requesting Council of Commissioners allow time on the April 17, 2019 Agenda for a presentation on the proposed Action Alternative for the expansion of the Yankee Doodle Tailings Impoundment and authorize the Chief Executive and Council Chairman to sign the attached letter of support to the DEQ.



Communication  
19-176 MRI Letter.pc

This presentation was to provide you with how robust the design. Independent review Show some of the continuing progress being made.

Once you submit a permit application for a modification to a mine permit, it goes through a revenue with DEQ, was everything provided, and does it comply with everything required. Once they are satisfied, they issue a draft permit. Then that application moves into an Environmental analysis under the Montana Environmental Policy act, in this case DEQ selected to do an EIS. DEQ is required to do an alternative to the proposed action.

**The letter that was submitted for your consideration asked for your support on the proposed action which was MR application versus the preferred alternative action by DEQ. It is protective of MR to try to discourage DEQ from pushing their alternative. My concern is that they are jeopardizing the permit of 365 members of my family.**

#### **Chief Executive Palmer:**

I ask that the legal and technical team review the letter before we sign and send it off. As long as they agree to it, we can sign it.



**Commissioner Morgan:**

A comment that was made earlier tonight regarding this communication about the open meeting laws being violated on the letter not being attached to the agenda.

The caption on the agenda explains that we will be discussing a letter, it was not attached the agenda but given to the Commissioners

I encourage you if you cannot find a letter referenced in the caption to contact the Council Secretary and a copy will be given to you.

The legal and technical review would have to make a quick turn-around.

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw to have the BSB Government write its own letter in support of the MR for the proposed action alternative contingent of the review of the legal and technical approval and submit it prior to the deadline April 22, 2019 and place this on file.*

**Commissioner Fisher:**

I fully believe that the people at MR have fully researched this. I think by having our technical and legal teams we are running into road block in supporting this endeavor. Not comfortable with waiting that long. They requested us to act, I think it would be a good idea to act.

**Commissioner McDonough:**

The letter has been provided and the letter asks the Chief Executive and Chairman sign it. They have done their due diligence and the letter is already written by MR. In a short time, frame are we going to write a letter that speaks to all the points that need to be made.

*In a sub-motion it was moved by Commissioner McDonough, seconded by Commissioner Andersen to have the support the letter already written by MR and place on file.*

**Chief Executive Palmer:**

*Could someone on the legal team give us their thoughts.*

**County Attorney Joyce:**

*I am not sure if Banderob's remark about not having the letter attached. I think it would be prudent to have another version or that letter drafted for public comment.*

**Commissioner Sorich:**

*I am in support of MR. Are we going to be able to get everything done by Monday?*

**Chief Executive Palmer:**

I think we can get it done by Monday, we just want the technical and legal team to scrutinize the letter. It may be perfectly fine to send it out. I think it is safe to commit to sending a letter out by Monday, either this one or one we tweak a little bit.

**Commissioner Fisher:**





If it's an issue that is important enough to change our rules and put it on "to be read and acted upon", we should act upon it. We should have thought about this before-hand, we shouldn't have it on the to be read and acted upon if we weren't going to act upon it.

**County Attorney Joyce:**

A Communication that is to be read and acted upon just means the Chairman has determined that it is worthy of discussion that it is going to be viewed. He believed I am assuming due to the short time frame. I did not say we were required to have proof of publication. I am only saying that the public would have an opportunity to comment on the letter, if it were attached without the Communication having to be segregated.

**Commissioner Andersen:**

Even with this way they wouldn't have an opportunity to comment on it. The public did comment on it, Mr. Banderob  
Commissioner McDonough:

Outside of protocol. MR is a very important part of our community. Golden Sunlight recently announced the closure of their facility. Their request has a huge financial impact on our community. Those considerations that need to be weighed when brought in front of us. If MR is halted or slowed in any way, we are going to have a huge impact on our community.

Commissioner Morgan:

Letter is dated April 19, 2019. Letter reads:



Communication  
19-176 MRI Letter.pc

Chief Executive:

Everyone understands that the substitute motion is to concur with the request and have myself and Commissioner Morgan sign the letter he just read.

**Passed unanimously by a verbal vote.**

**SUSPENSION OF THE RULES**

**BID OPENING**

**COMMUNICATION NO. 19-178**

Tom Loggins, Road Dept Foreman requesting Council of Commissioners allow time on the April 24, 2019 agenda for a Bid Opening for the purpose of opening bids for Asphalt Oil for the 2019 season.

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw and passed unanimously by verbal vote to have the Communication No. 19-178 referred to the Committee of the Whole pending a bid opening on April 24, 2019.*



**SECTION 4 ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY**

1. COUNCIL BILL 19-06

COUNCIL ORDINANCE 19-06

AN ORDINANCE AMENDING ORDINANCE NO. 325, ALSO KNOWN AS THE "ZONING ORDINANCE" AND TITLE 17 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) WHICH SECTION ADOPTED THE ZONING REGULATIONS OF BUTTE-SILVER BOW, STATE OF MONTANA; SPECIFICALLY AMENDING CHAPTER 17.31 RM-2 RURAL INDUSTRIAL ZONE; PROVIDING FOR THE REPEAL OF ALL PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL BILL 19-07

COUNCIL ORDINANCE 19-07

AN ORDINANCE AMENDING ORDINANCE NO. 325, ALSO KNOWN AS THE "ZONING ORDINANCE" AND TITLE 17 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) WHICH SECTION ADOPTED THE ZONING REGULATIONS OF BUTTE-SILVER BOW, STATE OF MONTANA; SPECIFICALLY AMENDING CHAPTER 17.31 RM-2 RURAL INDUSTRIAL ZONE; PROVIDING FOR THE REPEAL OF ALL PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION 5 ORDINANCES AND RESOLUTIONS FINAL READING**

1. COUNCIL BILL NO. 19-05

ORDINANCE NO. 19-05



AN ORDINANCE AMENDING CHAPTER 12.10 OF THE BUTTE -SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "EASEMENT REQUESTS", AND SPECIFICALLY AMENDING THE TITLE OF THIS CHAPTER TO 'EASEMENT REQUESTS - PORTABLE STORAGE EXCEPTION', AND ADDING NEW SECTIONS TO BE NUMBERED 12.10.020, 12.10.030, AND 12.10.040 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw that Council Bill 19-05, Council Ordinance No. 19-05 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**

R Edward Banderob:

- It was a slow thaw and we didn't need the sand bags.
- They are spread all over the community.
- Unfortunately, the article in the MT. Standard on Community clean up did not mention the sandbags.
- The sandbags can be taken back to the Corral if they do not have a place to store them.

Meeting was adjourned at 9:06 a.m.

---

Dave Palmer, Chief Executive

ATTEST:

---

Clerk & Recorder

