

**MINUTES OF THE REGULAR MEETING OF THE  
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS  
FOR MARCH 16, 2016**

The Regular Meeting of the Council of Commissioners was called to order Wednesday, March 16, 2016, 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 Palmer, *present*  
Commissioner Andersen, *absent*  
Commissioner Walker, *present*  
Commissioner Foley, *present*  
Commissioner Ralph, *present*

Commissioner Shaw, *present*  
Commissioner McDonough, *absent*  
Commissioner Henderson, *present*  
Commissioner Fisher, *absent*  
Commissioner Perdue-Dolan, *present*  
Commissioner Sorich, *present*

**STAFF PRESENT**

Kelli Fivey, Butte-Silver Bow Deputy County Attorney  
Laura Sargent, Deputy Clerk & Recorder  
Tracy Watt, Council Secretary

**PRAYER AND PLEDGE**

Commissioner Henderson said the prayer and led pledge.

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

R. Edward Banderob, 2601 Grand Ave., Butte, Montana, stated the following:

- Regarding Communication No. 16-110, requesting Council of Commissioners to establish rules and procedures to call for, authorize and recognize Advisory Community Councils.
- In recent *Montana Standard* article the Chief Executive was quoted as saying it is his, the Executive Branch's, responsibility to bring forth initiatives.
- But it is not the job of the Executive Branch to vet those initiatives with the public once introduced.
- That is the job of the Legislative Branch, as stipulated under the Council of Commissioners and Butte-Silver Bow City-County Charter.
- It is not logical to ask the same branch of government to vet something which they brought forward.



- For example, Resolution 16-8 – major policy decision. Council did not call for Legislative Branch Public Listening sessions, etc. before approving Resolution so it would be properly vetted with the public.
- The \$500,000 already committed is public money, and there is a smarter way to spend that money. It is a separate, major legislative policy determination.

APPROVAL OF THE MINUTES OF THE SPECIAL MEETING, FEBRUARY 22, 2016;  
REGULAR MEETING, MARCH 2, 2016; AND SPECIAL MEETING, MARCH 5, 2016

*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, February 22, 2016; Regular Meeting, March 2, 2016; and Special Meeting, March 5, 2016.*

ITEMS NOT ADDRESSED ON THE AGENDA

None.

CHIEF EXECUTIVE REPORT

Chief Executive Vincent reported the following:

- Soft announcement that the Montana DNRC has awarded Butte the Tree City of the Year Award, which comes with \$10,000 to go towards planting of trees. This is the 27th consecutive year Butte has been a certified Tree City USA.
- Minor changes to St. Patrick’s Day parade route. Be aware of parking.
- Monday, March 21, 2016 at 6:30 p.m., Restore Our Creek Coalition (ROCC) is holding public forum at the Mining Center, first of two visioning sessions.
- Tuesday, March 23, 2016 is World Water Day. There is a National Mayors Challenge with prizes for citizens who pledge to participate. Likely to have public opening and viewing of our new Water Treatment Plant at Basin Creek.
- On April 6, 2016 the Food Bank is holding the Empty Bowls fundraiser at the Civic Center.
- The EPA’s Assistant Regional Administrator, Martin Hestmark, is in town from Denver, Colo., for Consent Decree meetings today and will speak to us (during Consent Agenda segregation portion of agenda) with regard to the ROCC presentation held last Wednesday.

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

*Deputy County Attorney Kelli Fivey confirmed Proof of Publication for items 1, 2, and 3.*



1. BID OPENING  
COMMUNICATION NO. [16-69](#)

Patsy Coates, Property Specialist, Butte-Silver Bow Land Records Office, requesting Council of Commissioners concur with the request to hold a Bid Opening on March 16, 2016 regarding the Title and Lien Search of the 2016 Tax Deed Process.

Ms. Coates opened two bids:

Summit Valley Title Company	\$250/tax parcel
Montana Abstract and Title Company	\$200/parcel

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a unanimous verbal vote to refer the bids back to Patsy Coates, who will remain in the audience until we come to the Consent Agenda, at which time she can give us her recommendation.*

2. BID OPENING  
COMMUNICATION NO. [16-79](#)

Lori Casey, Assistant Planning Director, Butte-Silver Bow Planning Board, requesting Council of Commissioners concur with the request to hold a Bid Opening on March 16, 2016 regarding landscaping project using CTEP funds. [Bid Invitation](#).

Ms. Casey stated the following:

- This is our landscaping gateway project that we are using CTEP funds for.
- This will create a gateway entrance at the corner of Utah and Front Street, along with various trees, benches and landscaping improvements in the uptown Butte area, as well as some cross walk improvements.

Ms. Casey then opened two bids:

Tobines Construction	10% Bid Bond	Base Bid \$146,038.04 Alternate 1, \$15,300.00 Alternate 2, \$19,591.00 Alternate 3, \$15,300.00 Alternate 4, \$19,591.00 Alternate 5, \$2,274.50
Walsh Construction	10% Bid Bond	Base Bid \$153,121.00 Alternate 1, \$17,500.00 Alternate 2, \$22,750.00 Alternate 3, \$17,500.00 Alternate 4, \$22,750.00 Alternate 5, \$6,625.00



Commissioner Henderson asked what the Engineer's estimate was on the project.

Mitch Mihailovich, Project Manager with Pioneer Technical Services, stated total Base Bid \$117,312.80. Alternate 1, \$9,000.00; Alternate 2, \$11,700.00; Alternate 3, \$9,000.00; Alternate 4, \$11,700.00; Alternate 5, \$4,975.00.

***It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a unanimous verbal vote to refer the bids to the Planning Department and the Public Works Department and have them come back to Council with their recommendation.***

3. PUBLIC HEARING  
COMMUNICATION NO. [16-85](#)

Jeffrey L. Miller, Director, Butte-Silver Bow Fire Services, requesting Council of Commissioners schedule a public hearing for March 16, 2016 for the purpose of receiving public comment on a proposed amendment to the Butte-Silver Bow Fire Department's fiscal year 2015-2016 budget.

Director Miller stated the following:

- The purpose of tonight's Public Hearing is to receive public comment on a proposed amendment to the fiscal year 2015-2016 Butte-Silver Bow Fire Department budget.
- If approved, it would be to consider a Resolution that would amend the budget and create budget authority for the receipt of unanticipated revenue for the Fire Department budget.
- The source of the unanticipated revenue is from the Montana Department of Natural Resources. It's wildfire deployment revenue from last summer.

***Chief Executive Vincent opened the public hearing. He called for any proponents. There were none. He then called for any opponents. There were none. Chief Executive Vincent closed the public hearing.***

4. PRESENTATION  
COMMUNICATION NO. [16-80](#)

Jenny Chambers, Remediation Division Administrator, Montana Department of Environmental Quality, requesting Council of Commissioners authorize time on March 16, 2016 Agenda for an Update Presentation on the Montana Pole and Treating Plant Site.

Ms. Chambers stated the following:

- I am the Division Administrator for the Waste Management and Remediation Division of the Department of Environmental Quality.
- The focus of tonight's presentation will be specifically on the Montana Pole Federal Superfund Site.



- This is state lead site, so it is a Federal MPL site. But the state cash out settlement was for the DEQ to manage the facility in collaboration with the EPA.
- Staff introductions: Lisa DeWitt, Project Manager; Aimee Reynolds, Risk Assessor; Dave Bowers, Project Manager; Tom Stoops, Bureau Chief of the Federal Superfund Bureau; Colin McCoy, Engineer with Tetra Tech.
- With the EPA, since this is a collaborative project: Nokia Green, Project Manager; Joe Veranka, Supervisor of Remediation in Montana; and Martin Hestmark, from Region 8 in Denver.

*Ms. Chambers gave handouts to the Commissioners.*

[DEQ Montana Pole and Treating Plant Update. Map 1. Map 2.](#)

Lisa DeWitt, Project Manager, Montana Department of Environmental Quality, stated the following:

- I work for the Department of Environmental Quality out of Helena. I am the manager, for the state, of the Montana Pole and Treating Plant.
- Tonight will give a little history of the plant, what our current plans are, conceptually, with the offload and closure of the land treatment unit.
- We'll provide a little information about the protectiveness of the site at the closure of the soils remedy.
- The Montana Pole and Treating Plant is located in the southwestern portion of Butte, off of Greenwood Avenue. A portion of the site is north of the Interstate, along Silver Bow Creek.
- Montana Pole operated as a wood treatment facility from the mid-40's to the mid-80's.
- Used a solution of about 5% pentachlorophenol with petroleum oil to treat and preserve the wood.
- In March 1983, a local citizen filed a complaint concerning oil seeping into Silver Bow Creek. Further investigation revealed the presence of pentachlorophenol, polycyclic aromatic hydrocarbons (PAH), polychlorinated dibenzo-p-dioxins (dioxin), and polychlorinated dibenzofurans (furans).
- In 1993, the Record of Decision was finalized. This required excavation and on-site biological treatment of contaminated soils, long-term operation of a groundwater treatment system, and in situ treatment of the soils that remain inaccessible, primarily those underneath the Interstate.
- So for the remedy, we have two treatments – one for the groundwater and another for soils.
- Groundwater is recovered through two trenches. Transported to water treatment plant, where they're treated with carbon, meet the clean up levels, and the discharge goes back out to Silver Bow Creek.
- Throughout the life of the facility, we have removed approximately 60,000 gallons of contaminated oil from the groundwater. There are no longer seeps of oil along the creek.
- We have not had any product since about 2009. We don't see any more remaining oil coming through the treatment system. We feel this is a great sign of progress towards clean up.



- The treatment system currently runs at a constant rate of approximately 270 gallons a minute, 175 million gallons of water a year. Will continue about another 30 years.
- Between 1993 and 2003, the overall size of the groundwater contamination has decreased by over 40%.
- The other portion of the clean up is the soils clean up. Over 200,000 yards of the contaminated soils were excavated and treated onsite in the Land Treatment Unit.
- Previously, to this point in time, about 147,000 [yards] of contaminated soils were treated and placed back in the areas from which they were dug up. Those soils met the pentachlorophenol, polycyclic aromatic hydrocarbons (PAH) clean up levels, but they did not necessarily meet the dioxin clean up levels at that time.
- Where we are now is we are down to the last portion of treated soils on the Land Treatment Unit. And they have been determined to meet the pentachlorophenol and PAH clean up levels.
- Dioxins are much harder to treat. Our plan is to place these soils back in the area from which they were originally excavated.
- So our final remedy will entail capping this to eliminate exposure, and then institutional controls to maintain protectiveness.
- Would like to introduce Colin McCoy with Tetra Tech, to explain the plans we have currently to close out the Land Treatment Unit [LTU].

Colin McCoy, Engineer with Tetra Tech, stated the following:

- I'm here to explain the offload of the soils from the LTU.
- What we're planning on doing (if you'll refer to your figure), is move the soils from the LTU treatment area over to the area where the soils originally came from. There they'd be capped.
- We've recently mapped a flood plain through the area, which does cross the Montana Pole site. So part of the design is to carry the flood waters through the site without contact with any of the treated soils.
- The soils will be capped with an engineer's cap. We don't know the end use yet, but we will design it to what is needed.
- We are also designing our storm water controls appropriately for the site.
- The run on around the site will be routed through clean channels through the site, and any storm water that lands on the areas of the treated soils will be kept on the site.
- We will dispose of all the liners and everything from the LTU as hazardous waste.

Ms. DeWitt stated the following:

- We have been working with Butte-Silver Bow Planning to make sure that whatever we leave for the site remains as flat as possible for potential use, as the Record of Decision envisioned that the property would be turned over to Butte-Silver Bow upon completion of clean up.
- The use will be with some restrictions to protect the remedy and reduce exposure.
- Aimee Reynolds will discuss some of the exposure issues.



Aimee Reynolds, Risk Remediation Manager; Department of Environmental Quality stated the following:

- I've been asked to assist with the finalization of the remedy by evaluating whether the clean up levels are still protective by today's standards, since it's a very old Record of Decision.
- I'll also examine if we are providing a remedy that will cut off all exposure to those contaminants.
- Want to make sure cap is engineered properly.
- May also be looking at analysis of creek sediments to make sure they have not been impacted.
- Ongoing operation and maintenance and inspections. Will really be facilitated because we have a lot of Treatment Plant money. Anything that might happen to the cap will be noted right away.

Ms. DeWitt stated the following:

- Currently in the process of conducting the five-year review at this facility.

Chief Executive Vincent asked the following:

- When will the five-year review plan be released?

Ms. DeWitt stated the following:

- The five-year review should be completed by the end of June.

Commissioner Palmer asked the following:

- How much longer before it's turned over to Butte-Silver Bow?

Ms. DeWitt stated the following:

- In process of putting together the conceptual design for the closure of the LTU.
- Hoping to have it out for bid by early summer.
- Hope to get started moving dirt by early fall.
- So late this year, or early next year.

Commissioner Palmer asked the following:

- Recently Metro Sewer did some work there and did some dewatering and it created a problem. Is that ongoing?



Ms. DeWitt stated the following:

- It is an ongoing concern while construction is going on at the Wastewater Treatment Plant.
- But some five years ago, modeling and evaluations were done, and it was determined that by increasing the extraction rate at the Montana Pole and Treating Plant, which we are doing right now, that would mitigate the potential of additional impacts encountered at the Wastewater Treatment Plant.
- Since they are currently dewatering there right now with their ongoing construction, they are doing some monitoring of the groundwater there. At Montana Pole we have ramped up our groundwater pumping pretty much as high as we can, and we are not necessarily seeing additional impacts heading towards the Wastewater Treatment Plant. So we believe we have that mitigated.
- Their dewatering should be done the first of May, and I don't believe there will be additional construction dewatering, so we should be past it at that point.

Chief Executive Vincent stated the following:

- Because of that concern, we incorporated design on the new Wastewater Treatment Plant that would make it so we don't have to dewater to do the maintenance, as required in the past.
- Directly related to protecting the remedy at the Montana Pole Plant.
- As a result, Governor Bullock, working with the DEQ and our staff, was able to get about a \$4.5 million reduction on the cost of construction of that plant to our rate payers.

Commissioner Palmer asked the following:

- Is there any threat of contaminated groundwater?
- If there is, is there any long-term maintenance solution?

Ms. DeWitt stated the following:

- I do not believe there is necessarily a threat with contaminant from Montana Pole reaching the creek.
- We confirm that by annual sampling. We sample the affluent that comes out of our treatment system into Silver Bow Creek.
- At this point in time we envision that the water treatment is going to continue for another 30 years. That will continue until we can be sure that it will not contaminate Silver Bow Creek. That is one of our prime objectives.

Commissioner Sorich asked the following:

- Where will the funding come from for the maintenance plan?



Ms. DeWitt stated the following:

- The funding for the maintenance plan, I believe, was partially envisioned as part of the settlement agreement back in '93. At that time Butte-Silver Bow was awarded \$230,000 for implementation of institutional controls at this site.
- As we will have an ongoing water treatment system, I'd envision that the DEQ, through its contractors and the operator of the water treatment system would facilitate the operation and maintenance.

Commissioner Foley stated the following:

- We had a lengthy discussion and review for the move of our County shops. This was one of the top spots. But I think the majority of the members of this Council rejected that and we have moved forward.
- The concerns are the safety of the site.
- If contaminants are still on the site, is it safe?
- Down the road, will Butte-Silver Bow be the responsible party should something go wrong?

Ms. DeWitt stated the following:

- Our purpose is to design a protective remedy. To leave it safe for the intended use.
- It will be safe as long as the remedy remains in place. So with the cap, as long as that cap is not broken into ...
- I would envision we'd have some sort of soils management plan in place as part of the operations and maintenance that would discuss, say, if a utility corridor had to go through – that would describe how those soils were meant to be managed and how the remedy would be put back in place.
- My estimation would be that if that remained that way that should be a protective site.

Commissioner Foley stated the following:

- If and when the time comes that you offer this property to Butte-Silver Bow, will you offer assurances to this body that it is safe and if there are problems in the future that it's not our liability?
- Mr. Sesso has assured us of that, but I'd like to hear it from you and DEQ.

Ms. Chambers stated the following:

- I don't know if we could provide those assurances, but believe we'd work very closely with Butte-Silver Bow County as far as what is needed to provide that assurance, whether it's an operation or maintenance plan, whether it's helping us collaborate on what the institutional controls would be to maintain the protectedness of the remedy, and then what would need to be managed long term.



- We will build and leave the site that would be protective based upon the end land use.
- But then I think together we would have to work on whether the management of those activities, or whatever that land is left for, on how that would be protected.
- So, not impacting the cap, what the sole management would be of the site, what legally we could put into any assurances that are needed from some type of agreement prior to transferring that over to Butte-Silver Bow County.
- In a collaborative fashion based upon what we can do and what we can balance the end land use.
- There is a lot still to be determined, so that's kind of hard to say. But I think we can collectively do that.

Commissioner Perdue-Dolan asked the following:

- Do you feel you've had enough interaction with the residents nearby?

Ms. DeWitt stated the following:

- The residents always want more communication.
- I know many of them personally, and I do stop in when I am down there.
- They are my most important constituents.

Commissioner Perdue-Dolan asked the following:

- What is their biggest question or concern?

Ms. DeWitt stated the following:

- Their biggest question is why is this not moving, why is it not done?
- We are at the point now, once we can figure out what this should be, to be able to move forward and get that completed.

Commissioner Shaw stated the following:

- If the County did not want this land, what would be the DEQ's plan?

Ms. DeWitt stated the following:

- If Butte-Silver Bow did not want to take that property, DEQ would move ahead with a cap and likely a vegetative cover and be looking for another productive use for that property.

Commissioner Henderson stated the following:

- I wish we had this presentation sooner, as we were making decisions.



- It surprises me that all the sudden DEQ comes to our meeting when we've been questioning this Pole Plant for years. Now all the sudden we are moving at this rapid pace. This should have been all the time keeping us advised. We as commissioners get calls all the time from everybody in the area and from environmental watchdogs telling us that this is not clean, etc.
- How big a factor does EPA play into this, too?

Ms. DeWitt stated the following:

- We have been working with Butte-Silver Bow Planning Department.
- Hard to reach everybody.
- If you need more information, please call.
- I believe my EPA counterpart, Nokia Green, and I work very closely together. I perceive it to be a team project. EPA is involved in decision-making.

Nokia Green, EPA Project Manager, stated the following:

- Lisa's right. We do work hand in hand together.
- We are also working on five of the Pole Barns located on the site. They are EPA property. We are looking to transfer that property to Butte-Silver Bow, and Mr. Sesso is going to bring that in front of the Commissioners at some point.
- How EPA views the risk management of the Montana Pole site is relative to Copper Mountain. Butte-Silver Bow is building a legion baseball field on that cap. And that's an engineered cover. There's going to be kids playing baseball on that cap. Is that protective? Yes, it is.
- Some engineering tasks that come with building the baseball field require penetrations to the cap. In my mind, as long as there's sufficient ICs in place and oversight on penetration of the cap and the material and liner and everything is put back and the material is handled the way it's supposed to be handled for risk management, the safe is site (sic).

Commissioner Henderson stated the following:

- Montana Pole isn't near like Copper Mountain as far as the dioxins and contamination. Some of the most serious stuff there is was used at the Montana Pole site. Correct?

Mr. Green stated the following:

- They are different contaminants. Dioxins are different than metals.
- The way dioxins are contained in soil, they are not mobile. So as you design the placement of the dioxins, above the ground water with the cap.
- When you have a storm event hitting the cap and actually running off, then you don't get that infiltration, and you don't have any contact with ground water.



- There's no exposure there. And there's no room for the dioxins to be mobile and leave that area.

Commissioner Henderson stated the following:

- I appreciate tonight's presentation, but think it was many years overdue.
- Hard to believe how fast this all of the sudden came to fruition with the coming elections and all.
- Last week we had presentation from Joe [Griffin] telling us not to rush any decisions, and now we're under the gun again.
- I concur with Commissioner Foley and would want an absolute guarantee from DEQ and EPA, a complete guarantee, that there will be no after affect from this.

Chief Executive Vincent stated the following:

- We look forward to additional updates as clean up progresses.
- Maybe when that five-year review comes out in June you could share it with us.

Ms. DeWitt stated the following:

- We might consider, once we get a final design together, a presentation to the commissioners.

## **SECTION 2 CONSENT AGENDA**

- A.
  - 1. COMMITTEE OF THE WHOLE MEETING REPORT
  - 2. JUDICIARY COMMITTEE MEETING REPORT
  - 3. PUBLIC WORKS COMMITTEE MEETING REPORT
  - 4. FINANCE & BUDGET COMMITTEE MEETING REPORT
  - 5. ECONOMIC DEVELOPMENT 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 Palmer segregated A. 1. Section 1 16-91 and B. 13. 16-110.

Commissioner Shaw segregated A. 1. Section 9. 16-69.

Commissioner Henderson segregated B. 16-101.

Commissioner Perdue-Dolan segregated A. 2. Section 3, Resolution 16-8 and B. 27. 16-124.

Commissioner Morgan segregated B. 15. 16-112 and 19. 16-116.



*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, with exception to Section 1, 16-91 and Section 9, 16-69. Also out of A. 2., Section 3, Resolution 16-8. Then in Communications, B. 1 through 27, segregate items 4, 16-101; 13, 16-110; 15, 16-112; 19, 16-116; and 27, 16-124.*

**Segregation – Committee of the Whole Report, Section 1, Presentation No. [16-91](#).**

**Northey Tretheway, Restore Our Creek Coalition (ROCC), requesting Council of Commissioners authorize a presentation on March 9, 2016 from ROCC regarding the upper Silver Bow Creek and the Coalition.**

Commissioner Palmer introduced Martin Hestmark, Assistant Regional Director of the EPA out of Denver.

Mr. Hestmark stated the following:

- I am the Assistant Regional Administrator for Ecosystems Protection and Remediation out of Denver.
- In short, that's Superfund, emergency response, ground fields, water quality standards, and Environmental Impact Statements for the six states that make up Region 8.
- Here today as leader for the EPA Region 8 Negotiation Team for the Consent Decree for Butte-Silver Bow priority soils operable unit.
- We are all very aware of the community's concerns.
- Consider Butte a Number One priority.
- Will be a time for formal public comment on the Consent Decree.
- Meantime, we are open to hear concerns.
- Optimistic we'll have something in front of the community, another installment, sooner than later.
- Many of the issues we're discussing have already been addressed in documents that are in the public domain.
- The issues we are aware of are the issues that the community has presented and they are talked about in those documents.
- I can be available to you into the future. We've been here a long time. We're trying to wrap things up. But we're not going away.
- Our obligation and commitment is to ensure that the remedy that is implemented is protective. That obligation doesn't go away. That obligation is a commitment forever.

Chief Executive Vincent stated the following:

- We look forward to having you back as we progress and we can have a more thorough discussion on the public record.



- At this time we will not have questions, given the significance of this with the public and because it was not specifically on tonight's Agenda.

*It was moved by Commissioner Palmer, seconded by Commissioner Morgan, and passed by a unanimous verbal vote to Place on File Presentation No. 16-91. (Commissioner Shaw noted that was the original recommendation.)*

**Segregation – Committee of the Whole Report, Section 9, Communication No. 16-69.**

**Patsy Coates, Property Specialist, Butte-Silver Bow Land Records Office, requesting Council of Commissioners concur with the request to hold a Bid Opening on March 16, 2016 regarding the Title and Lien Search of the 2016 Tax Deed Process.**

Commissioner Shaw stated the following:

- In the “Regarding” portion of Ms. Coates’ communication she requested acceptance of lowest bidder. That’s the key.
- I’m going to ask Ms. Coates to give us her recommendation, and we will take that into consideration.

Ms. Coates stated the following:

- Please award the bid to Montana Abstract for \$200 per parcel so we can move forward with the Delinquent Tax Deed process.

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a unanimous verbal vote to Accept the bid from Montana Abstract and Place on File Communication No. 16-69.*

**Segregation – Judiciary Committee Report, Section 3, Resolution No. 16-8.**

**A RESOLUTION DIRECTING THE ELECTION ADMINISTRATOR TO PUT THE QUESTION OF APPROVING A GENERAL OBLIGATION BOND ISSUE NOT TO EXCEED THE AMOUNT OF \$8,700,000.00 FOR A TERM OF TWENTY YEARS FOR THE CONSTRUCTION OF THE BUTTE-SILVER BOW AQUATICS AND RECREATION COMPLEX, AND APPROVING \$350,000 TO BE LEVIED ANNUALLY FOR THE OPERATION, MANAGEMENT AND MAINTENANCE OF THE AQUATICS AND RECREATION COMPLEX, ON THE BALLOT FOR VOTER APPROVAL AT THE GENERAL BALLOT ELECTION TO BE HELD ON TUESDAY, JUNE 7, 2016 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.**

Commissioner Perdue-Dolan began by stating that, regarding the Official Ballot Question, page 5, line 6 ...



**Chief Executive Vincent called Point of Order**, stating the Resolution is now under Section 4 on the current Agenda.

*It was moved by Commissioner Perdue-Dolan, seconded by Commissioner Shaw, and passed by a unanimous verbal vote to Approve and Amend to Final Reading Resolution No. 16-8.*

**Segregation – Communication No. 16-101.**

**Rod Warnstrom, Master Electrician/Shop Owner, ARC Electric, 3523 Oregon Avenue, requesting Council of Commissioners address the issue of Butte-Silver Bow employees competing against local electrical contractors.**

Commissioner Henderson stated the following:

- I segregated this because I have not been able to find out what the problem is here. I would like to hear from Mr. Schultz.

Chief Executive Vincent stated the following:

- Mr. Schultz, I know he's got two of our three electricians under his direction, so we'll call on him.

David Schultz, Director, Butte-Silver Bow Public Works Department, stated the following:

- We employ three electricians at Butte-Silver Bow. Two are Master Electricians, and one is a Journeyman.
- One of the Master Electricians works for the Planning Department, and he primarily issues electrical permits and does inspections.
- The other two do a lot of maintenance and other work in all the County facilities.
- We became aware, through our Union negotiations with the IBEW, that some of the work our men do on our own facilities actually requires that a permit be pulled.
- We cannot pull a permit unless we are licensed as a General Contractor in the State of Montana.
- So we are going to fill out that paperwork and get that license, but only for the purpose of being able to continue to do the work on our own facilities, with our own electricians, that we have done for decades.
- This is simply a way to get right with the law.
- We have no intention of doing any work outside of Butte-Silver Bow. This will only be perpetuating the things we've always done.

Commissioner Henderson stated the following:

- Thanks Dave, I was just a little confused. I didn't think we were going out doing any other work – just on our own buildings – that they have done for decades.



Director Schultz stated the following:

- Yes, that is correct. The folks at ARC maybe had some idea that we were going to be competing in the private sector. Of course, we're not doing that.

*It was moved by Commissioner Henderson, seconded by Commissioner Morgan, and passed by a unanimous verbal vote to keep the current recommendation and Refer to Public Works Committee Communication No. 16-101.*

**Segregation – Communication No. 16-110.**

**R. Edward Banderob, Interim Facilitator, Greeley Neighborhood Community Coalition, requesting Council of Commissioners to establish rules and procedures to call for, authorize and recognize Advisory Community Councils. [Petition](#).**

Commissioner Palmer stated the following:

- The recommendation was to Note and Place on File.
- I would like to refer it to Judiciary Committee so we can come up with a solution.

*It was moved by Commissioner Palmer and seconded by Commissioner Henderson, to Refer to Judiciary Committee Communication No. 16-110.*

**On the Question**, Commissioner Morgan stated the following:

- This has already been referred to Judiciary at some point in the last couple of years and voted on.
- So how do we vote on it again?
- I think we've addressed this issue one time before. At least one time.
- Mr. Banderob, the author of the letter has asked to speak, so I would like him to ask his question.

Mr. Banderob stated the following:

- The issue that was voted on before was neighborhood councils. And it was clarified by the Attorney that this Charter does not address neighborhood councils.
- The Charter addresses community councils, which are a completely different animal.
- Therefore, I really don't believe you have voted on it previously.

Kelli Fivey, Butte-Silver Bow Deputy County Attorney, stated the following:

- I guess if there is a difference between the two committees it would be a new issue and we could definitely look at it again.
- Without having knowledge of a lot of what this about, my best answer is I don't know.



Commissioner Shaw stated the following:

- Kelli, I totally concur with that.
- If we send to Judiciary, we can have Eileen [Eileen Joyce, County Attorney] – she’s intimately involved with this issue and actually wrote an opinion about it last year, so I think it’s appropriate to do that.
- Ask that we indulge them one more time.

***The motion passed by a roll call vote of 6 yea and 3 nay. Commissioners Morgan, Sorich and Walker voted nay.***

**Segregation – Communication No. [16-112](#).**

**Jeffrey L. Miller, Director, Butte-Silver Bow Fire Services, requesting Council of Commissioners to concur with request to apply for FEMA Assistance to Firefighters Grant, under the Staffing for Adequate Fire and Emergency Response category.**

Commissioner Morgan stated the following:

- I see Mr. Miller in the audience, so maybe I can ask this question now.
- One of the concerns with asking permission for a grant from the Commission is – I like to see the numbers.
- What is the matching portion that you’ll be asking Commission to approve at a later date?
- Also, there is the question, after we hire these individuals, if we get the grant, do we keep them on? Hopefully the answer is yes, but then it’s our job to try and find the funding.
- Do you have funding resources available, or how are we going to manage that?

Director Miller stated the following:

- There is no matching requirement for this grant.
- The period of performance is two years.
- There’s also no requirement to keep the firefighters if we get the grant.
- But obviously the reason we are asking permission to apply for the grant is that we’re requesting four firefighters, one for each of the four shifts, to increase the numbers of on-duty firefighters.
- The primary reason we always ask for this grant is to increase the number of firefighters to move us closer to the NFPA-17 Standards.
- You try to achieve the Standard of four-person engine companies within four minutes of the first alarm to a fire.
- Every Standard looks at the initial minutes of a fire to get as many firefighters on scene within that first few minutes.
- That’s when you can do the most good performing rescues and knocking down the fire initially. That’s what the Standard is.



- Even with adding four firefighters, we're not ever going to get close to the 17-10 Standard.
- If we are a successful grant applicant, we would hope to keep those four firefighters.
- But it's not realistic that the funding is there within our current budgeting, so if we got them, we'd try to fit them in through attrition and retirements and hope that something good happens with the tax base in the meantime.

Commissioner Morgan stated the following:

- Would those four firemen be hired on contract basis rather than full-time employment?

Director Miller stated the following:

- The grant provides full benefits and wages for two years, so they'd be hired as full-time employees, with the knowledge that they could potentially lose their job in the two-year period if the grant funding ran out and there wasn't a way to assume those positions through retirement or attrition if the funding didn't become available to pick them up.

Chief Executive Vincent stated the following:

- The timing is actually pretty good on this for succession planning.
- Knowing this is a two-year grant, there are going to be some retirements coming up.
- It actually allows us, at no cost to the tax payers, to get some of these firefighters in and start getting trained on the ground level before the individuals retire.
- That way, when the retirements happen, you have trained firefighters, rather than starting out as newly tested and appointed firemen.

Director Miller stated the following:

- I think we will see some retirements within the next four to five years.
- We've put in for these grants the last four to five years, and we have not been successful. So I really don't know what our chances are. But I think it's incumbent upon us to continue to try.

Commissioner Morgan stated the following:

- I agree with all that's been said.
- These firefighters, when they apply for and accept the job, it needs to be communicated to them that the funding might go out.
- They just need to be aware of that, before we get stuck in lawsuits, as far as that goes.

***It was moved by Commissioner Morgan, seconded by Commissioner Shaw, and passed by a unanimous verbal vote to Concur and Place on File Communication No. 16-112.***



**Segregation – Communication No. 16-116.**

**Mike Clague, Butte-Silver Bow Deputy County Attorney, requesting Council of Commissioners authorize Butte-Silver Bow DUI Court to apply for a grant from the United States Department of Justice.**

Commissioner Morgan stated the following:

- This communication is asking for Council approval to apply for a grant.
- Don't see any information if there is a matching grant requirement or not.
- Don't see Mr. Clague in the audience tonight, so will ask Kelli if she knows anything about this particular grant.

Kelli Fivey, Butte-Silver Bow Deputy County Attorney, stated the following:

- I don't know about this particular grant.
- I know the DUI court runs primarily off of funding from grants.
- And I know their funding goes to various training and awards for participants and items such as that.
- I'm going to assume that this funding is for items they've used in the past.

Commissioner Morgan stated the following:

- Danette, do you have any information?

Danette L. Gleason, Director, Butte-Silver Bow Finance and Budget Department, stated the following:

- As Kelli stated, it is a similar grant as they've applied for in the past.
- Money comes from the State of Montana.
- There's two different grants if they are successful – some is State money and some is Federal.
- Most of the matching is already in place.
- It's services that the County Attorney's office offers to the program, as well as the Clerks in the Court system.
- That's kind of how the matching takes place.

Commissioner Morgan stated the following:

- So at the end of the day, there's matching that you are aware of?

Director Gleason stated the following:

- Yes.



*It was moved by Commissioner Morgan, seconded by Commissioner Shaw, and passed by a unanimous verbal vote to Concur and Place on File Communication No. 16-116.*

**Segregation – Communication No. 16-124.**

**Chief Executive Matt Vincent, requesting Council of Commissioners concur with and authorize to grant \$1,000,000 from the Hard Rock Development Assistance Program to Bert Mooney Airport Authority to assist with construction expenses. [Proposal](#).**

Commissioner Perdue-Dolan stated the following:

- My question is about the Bert Mooney Airport being on the Essential Air Service [EAS] list.
- Concerned that smaller airports on the EAS can be shut down at any given moment.
- Re-do airport terminal and put in \$1,000,000 of tax payer money into that, are we concerned about the Bert Mooney Airport being on the Essential Air Service list?

Pam Chamberlain, Bert Mooney Airport, Assistant Manager, stated the following:

- Essential Air Service is a big concern for people who may not thoroughly understand that.
- We are in contract with Essential Air Service.
- We feel that gives us a leg up on other airports in the state. Most do not have long-term commitments and contracts from airlines. Most are on month to month basis.
- We feel EAS is a benefit. We have long-term two-year commitment.

Commissioner Perdue-Dolan stated the following:

- It does give you Federal money, but can't it be shut down at any turn?
- With the change of administrations, it could be a concern.

Ms. Chamberlain stated the following:

- With Essential Air Service, the airport does not receive any Federal funds.
- The airline receives the funds.
- Also, in their contract, there is a stipulation that if the airline were to pull out, they would have to be replaced with a comparable carrier. And the Chief Executive and community would have to approve that carrier.

Commissioner Henderson stated the following:

- The other day we had a meeting on this, and Pam was there with Pat from the airport, and the Chief Executive, Mr. Palmer, Karen Byrnes, and myself.



- Pat and Pam explained things to us. One great thing I see from this is, this airport was built in, I think he said, '52. You know that when you go out there to wait in line and you're out the door.
- I think it would be a great economic boost.
- I think this \$1,000,000 from the Hard Rock Fund is well spent for something like this. For us to have an airport that the Federal government is chipping in \$14,000,000, is that right Pam?

Ms. Chamberlain stated the following:

- Yes, over several years, that's the contribution. And we pay for that with our entitlements.

Commissioner Henderson stated the following:

- So I think for that first impression, with people going in or out, that airport would be just a real plus.
- I think it's a great idea.

*It was moved by Commissioner Perdue-Dolan, seconded by Commissioner Henderson, and passed by a unanimous verbal vote to Concur and Place on File Communication No. 16-124.*

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

#### 1. COUNCIL RESOLUTION NO. [16-12](#)

A RESOLUTION AUTHORIZING AND APPROVING THE EXCHANGE OF CERTAIN PARCELS OF REAL PROPERTY LOCATED IN THE NORTH ONE-HALF OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 7 WEST, P.M.M., BUTTE-SILVER BOW COUNTY, MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

#### 2. COUNCIL RESOLUTION NO. [16-13](#)

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 GRANT FROM THE NATIONAL CENTERS FOR DISEASE CONTROL AND PREVENTION TO THE DEVELOPMENTALLY DISABLED FUND FOR THE PURPOSE OF BRIDGING THE GAP BETWEEN THE DEVELOPMENTALLY DISABLED AND IMPLEMENTATION OF LOCAL COMMUNITY PROJECTS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.



3. COUNCIL RESOLUTION NO. [16-14](#)

A RESOLUTION DECLARING THE INTENTION OF THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA TO APPROVE MATCHING FUNDS FOR A TSEP PLANNING GRANT FOR A PRELIMINARY ENGINEERING REPORT FOR WASTEWATER COLLECTION SYSTEM AND PROVIDING FOR THE EFFECTIVE DATE HEREIN. [Management Plan](#).

**SECTION 4 ORDINANCES AND RESOLUTIONS  
FINAL READING**

1. COUNCIL BILL NO. [16-3](#)  
ORDINANCE NO. [16-3](#)

AN ORDINANCE AMENDING CHAPTER 2.72 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC), ENTITLED “SMALL BUSINESS INCUBATOR BOARDS” AND REPLACING THE TITLE WITH THE NAME “BUSINESS DEVELOPMENT CENTER ADVISORY BOARD AND AMENDING SECTIONS 2.72.010 2.72.020, 2.72.030, 2.72.040, 2.72.050, 2.72.080, 2.72.110 AND DELETING 2.72.060, 2.72.070 AND 2.72.090, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. [Redline](#).

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan, that Council Bill No. 16-3 and Ordinance No. 16-3 be placed on Final Reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 8 yea and 1 nay. Commissioner Perdue-Dolan voted nay.*

2. RESOLUTION NO. [16-8](#)

A RESOLUTION DIRECTING THE ELECTION ADMINISTRATOR TO PUT THE QUESTION OF APPROVING A GENERAL OBLIGATION BOND ISSUE NOT TO EXCEED THE AMOUNT OF \$7,200,000.00 FOR A TERM OF TWENTY YEARS FOR THE CONSTRUCTION OF THE BUTTE-SILVER BOW AQUATICS AND RECREATION COMPLEX, and APPROVING AN AMOUNT UP TO \$350,000 TO BE LEVIED ANNUALLY FOR THE OPERATION, MANAGEMENT AND MAINTENANCE OF THE AQUATICS AND RECREATION COMPLEX, ON THE BALLOT FOR VOTER APPROVAL AT THE GENERAL BALLOT ELECTION TO BE HELD ON TUESDAY, June 7, 2016 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. [Redline](#).

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan, that Resolution No. 16-8 be placed on Final Reading and be passed, having been deemed fully read at length.*

Commissioner Perdue-Dolan stated the following:

- I have a ballot question. It’s on page 5, line 6. The word “tax” was redlined out. Why?



- I feel the voters should be given the most information possible, especially when the amount of money levied for 20 years, \$350,000 for the operation, management and maintenance of this aquatics and recreation complex, will be voted on for them and to them in addition to the \$7.2 million for the creation of this aquatics complex.
- The levy and this annual tax – I didn't feel this three letter word should be relined out. Why was it taken out of the Official Ballot?

J.P. Gallagher, Director of Butte-Silver Bow Parks & Recreation Department, stated the following:

- One of the things we look at going through the language is the consistency of it. Levy and tax are essentially the same. We were eliminating a lot of unnecessary verbiage.

Director Gleason stated the following:

- That's exactly right. We were trying to read through and redline some duplication of words.
- Plus trying to match the heading of the Resolution with some of the Ballot language.
- At certain times, we will not be levying an additional tax for the \$350,000 because we have a cap that we can use to fluctuate the budget with. So it's more of a levy that we'll be doing, but a tax most of the time because of that difference we have available in our cap.

Commissioner Perdue-Dolan stated the following:

- So, just to be clear, J.P. said the levy and tax were the same word. But Ms. Gleason seems to be saying they are not.

Director Gleason stated the following:

- They are similar. But we feel by saying "levy" and "tax" again we're duplicating.
- We're not necessarily going to be adding tax for the operating cost associated with the pool, it just depends how the budget falls out.
- So we took the word "levy" instead of the word "tax."

Commissioner Henderson stated the following:

- I'd like to see this go before the voters.
- I still have serious questions.
- For example, exactly what's going on with the concessions?
- I'd read that the final was due for the concessions contract through the Carousel.
- Never did find out if we have that or not.



- Final draft said we were going to get 5% from them. They're going with their concessions, they have to. That's how they're going to operate and start, but I didn't know what the pool was doing.
- So if we could get those questions answered down the road.
- But I would like to get this to the voters and let them decide. This is a lot of weight on top of the Commissioners here to make a decision, so let the voters do that.

Director Gallagher stated the following:

- With clarification on the concessions, there was an MOU with the Carousel stipulating that there would be 5% given to Butte-Silver Bow.
- As it's gone forward and things have changed, the Carousel has moved forward as a stand-alone facility.
- There is some language within that that will need to be changed because it doesn't match where the project is going now.
- In speaking with the Carousel group, they have a stand-alone concession stand, and we will have a stand-alone concession stand as well.
- We need to renegotiate what that language will be because there will be no shared concessions per se.
- There is language we'll want to keep where we'll be doing tickets and things like that together.
- The language within that MOU really does not fit what the project is currently between the pool and with the Carousel.
- I've had those conversations, sat in Carousel board meetings, and I'm going again this Friday. But I think they understand that they'll be running their own concession stand and we'll probably be running our own.

Commissioner Shaw stated the following

- Thank you for the breakdown J.P.
- Now that we are talking about possibly having a basic pool, possibly it separated from the amenities, I have a lot of people ask me to justify the \$7.2 million.
- I really do believe this is a tax payers, or voters, not just tax payers, but voters decide this. And I would also like to see this publicly made to the press and other media so we can say that our citizens are educated as to what they are really voting for.

### [Stodden Park Pool Conceptual Design Cost Estimate](#)

Commissioner Henderson stated the following:

- Still think a big factor for the pool, not to make money, but to help with expenses, that concession was a big part of that.
- In talking to other swimming pool functions, they all say it's all about the concessions.



- When you're talking a modest \$50,000, that you were kind of low balling, of kids coming in at \$3 to \$5, with adults – that's not very much.
- So I think that concessions, down the line, if you projected them, clarification in the MOU would sure help the public when they're voting for this, too.

**Commissioner Morgan called for Point of Order**, stating:

- Concessions don't have anything to do with the resolution, so for us to go into discussion with it, I think we're out of line.

**Chief Executive Vincent called for the question, which passed with a unanimous verbal vote. The motion then passed by a roll call vote of 8 yea and 1 nay. Commissioner Perdue-Dolan voted nay.**

3. COUNCIL RESOLUTION NO. [16-9](#)

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE PIZZA RANCH MINOR SUBDIVISION – EXPEDITED REVIEW 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.

***It was moved by Commissioner Shaw, seconded by Commissioner Morgan, that Resolution No. 16-9 be placed on Final Reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 9 yea and 0 nay.***

4. COUNCIL RESOLUTION NO. [16-10](#)

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 GRANT REVENUE TO THE BUTTE-SILVER PUBLIC ARCHIVES FROM THE FEDERAL GOVERNMENT, DEPARTMENT OF INTERIOR, NATIONAL PARK SYSTEM FOR THE PURPOSE OF CREATING AN ETHNIC ATLAS AND CREATING THREE NATIONAL LANDMARK PROPERTY NOMINATIONS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

***It was moved by Commissioner Shaw, seconded by Commissioner Morgan, that Resolution No. 16-10 be placed on Final Reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 9 yea and 0 nay.***

5. COUNCIL RESOLUTION NO. [16-11](#)

A RESOLUTION APPROVING GROWTH POLICY AMENDMENT NO. 30 TO APPROVE CHANGES TO THE BUTTE-SILVER BOW COUNTY GROWTH POLICY LAND USE MAP



OF THE 1987 BUTTE-SILVER BOW MASTER PLAN; INCORPORATING, BY REFERENCE, THE CHANGES TO THE MAP AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Shaw, seconded by Commissioner Morgan, that Resolution No. 16-11 be placed on Final Reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 9 yea and 0 nay.*

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None.

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 9:25 p.m.

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MATT VINCENT  
CHIEF EXECUTIVE

ATTEST:

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CLERK & RECORDER

