

**MINUTES OF THE REGULAR MEETING OF THE
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
FOR MAY 4, 2016**

The Regular Meeting of the Council of Commissioners was called to order Wednesday, May 4, 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, *present*
Commissioner Walker, *present*
Commissioner Foley, *present*
Commissioner Ralph, *present*

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

STAFF PRESENT

Mollie Maffei, Butte-Silver Bow Deputy County Attorney
Colleen Safratowich, 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

None.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF APRIL 20, 2016

It was moved by Commissioner Shaw, seconded by Commissioner Morgan, and passed by a unanimous verbal vote to approve the minutes of the Regular meeting of April 20, 2016.

ITEMS NOT ADDRESSED ON THE AGENDA

None.



CHIEF EXECUTIVE REPORT

Chief Executive Vincent reported the following:

- There have been a lot of calls from 4-H members. There was some motion towards mediation earlier this year. At the end of the day, this is a Montana State University Extension program. They have taken some actions that I think have got a lot of people shaking their heads. I know it's an unfortunate situation.
- We, Butte-Silver Bow, don't have a lot to do with the decisions that were made, and we can't say a lot at the request of Montana State University Extension, with the exception of two things:
 1. The County Fair will be held this year, same week it always is in August; and
 2. The 4-H kids and their families will have an advisory structure where they can get assistance.
- Butte-Silver Bow, through our Fair Board and Community Development, is committed to working with the Council of Commissioners as well as, really, whatever it takes to accomplish those two tasks.
- Newspaper article and television news should shed more light on this situation.
- If you get questions, forward them on to the MSU Extension folks: Steve Siegelin, Regional Extension Agent and Todd Kesner, MSU Extension's head for entire state of Montana for 4-H Program.

- Tomorrow letters will be sent out to begin Sidewalk Rehabilitation Program.
- For whatever reason, there was a more than decade hiatus.
- We're moving ahead to start the project up again.
- Letters will be sent to residents who had previously requested sidewalk improvements. Danette [Gleason] and Dave [Schultz] have been working on that. It goes back to 1998, so we're starting with the residents who were on the list that long ago to find out if they're still interested. We'll determine the priority of the projects after we get that information. Priority of safety, previous order of the request, then we'll look at the new requests as far as safety.
- Butte-Silver Bow work crews will do tear out, then we'll put out a contract for the concrete finish work. We're trying to identify concrete contractors who have availability in their schedules this year.
- The cost of the sidewalk, with these residents who are going to take part, would then be put on their taxes and paid off over five years.
- If you have any questions, contact Jennifer Kerns in the Public Works Department at 497-6566.

- Rigorous search for new IT manager. Have hired Mike McKillips.
- Mike is a Florida native. Comes to us most recently as the IT Manager from the Idaho State Police Force out of Boise.
- He worked previously with the Department of Administration in IT for the State of Montana.



- Over 27 years experience.
- He will be working with this body on the IT things that we have been talking about for awhile.
- Mike brought his wife with him, who I think is working up at Montana Tech.

Mike McKillips, Butte-Silver Bow IT Manager stated the following:

- Looking forward to getting some of these projects back on track.
- Should be mid- to late-summer for Council Chambers upgrades.
- Need to re-engage with some of the other things and get them rolling again.
- A lot of things, a lot of balls in the air at the same time, so I ask for a little bit of patience and understanding.

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

Deputy County Attorney Maffei confirmed Proof of Publication appeared to be in order for both items under Section 1.

1. PUBLIC HEARING PETITION NO. [15-3](#)

MICHAEL A. NASHEIM, BUILDING OFFICIAL, BUTTE-SILVER BOW BUILDING CODE DEPARTMENT, REQUESTING COUNCIL OF COMMISSIONERS AUTHORIZE A STREET CLOSURE PETITION ON AVON AND UTAH STREETS FOR COPPER FOX DEVELOPMENT, INC. (PETITION WAS STARTED IN 2015). [SIGNATURES](#). [MAP](#). [COMMENTS](#).

Mr. Nasheim stated the following:

- I have with me here Mr. Les Thomas, who is the builder of this subdivision, representing Copper Fox Development.

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.

2. PUBLIC HEARING COMMUNICATION NO. [16-141](#)

CAPTAIN DOUG CONWAY, BUTTE-SILVER BOW LAW ENFORCEMENT DEPARTMENT, REQUESTING COUNCIL OF COMMISSIONERS AUTHORIZE ONLINE SUBMISSION FOR THE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AND SCHEDULE A PUBLIC HEARING FOR MAY 4, 2016. [NOTICE OF PUBLIC HEARING](#).



In Captain Conway’s absence, Chief Executive Vincent called upon Danette L. Gleason, Director, Butte-Silver Bow Finance and Budget Department.

Director Gleason stated the following:

- I am not familiar with this grant. I can tell you the past grants that we’ve put in for are for a lot of different computer equipment that’s been used over in the Law Enforcement Department, as well as some training was used on the past grants.
- I am not familiar for what they put in with this particular grant or what they’re asking to put in for.

Commissioner McDonough stated the following:

- The hyperlink is “computer equipment and supplies,” it says.

Chief Executive Vincent stated the following:

- This is a grant that they put in for. Normally we see it on a year to year to year basis.

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.

SECTION 2 CONSENT AGENDA

- A.
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. ECONOMIC DEVELOPMENT COMMITTEE MEETING REPORT
 - 3. FINANCE & BUDGET COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT
 - 5. JUDICIARY 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 Shaw segregated from the Public Works Committee Report, Section 3, Communication No. 16-160.

Commissioner Henderson segregated #13, Communication No. 16-190.

Commissioner Shaw segregated #9, Communication No. 16-185.



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 of No. 4, Section 3, Communication No. 16-160; and Section B, Items 1 through 25, with exception of #9, Communication No. 16-185 and #13, Communication No. 16-190.

Segregation – Public Works Committee Report, Section 3, Communication No. 16-160

Nick Sandford, Road Operations Manager, Butte-Silver Bow Public Works Department, requesting Council of Commissioners approve request for County Attorney to update *Traffic Control Signals* Ordinance to remove the traffic signal at Broadway and Wyoming Streets and update *Stop Intersections* Ordinance to include Wyoming as a stop street before entering Broadway Street. [Signal Warrant Study](#).

Commissioner Shaw stated the following:

- Last week at the Committee of the Whole meeting a motion was made and seconded. There were three yeas and three nays, which simply sends it to the full Council today for approval by full Council.
- At this time I'd like to give a brief history. This first came up on December 10th last year as a request to remove the traffic signal at Wyoming and Broadway. We deliberated for about a month. On January 13th we agreed to allow the Public Works Department 90 days to review it.
- Just recently we got this communication from our Road Operations Manager asking us to start moving forward with their recommendation.
- So the first thing I'd like to do is call on Nick Sandford. He can give us a thumbnail of what he is requesting. And thank you too, Nick, for giving us a copy of the Signal Warrant Study that was done four years ago.

Mr. Sandford stated the following:

- I provided you with a packet that contains the Warrant Analysis that was conducted back in 2012 by Dowl HKM.
- Basically what the Warrant Analysis states – it takes into contemplation nine different warrants to see if this signal is actually warranted.
- Based on those warrants, it was found that the signal is not actually warranted. That's based on traffic studies, peak volume hours, pedestrians, crash experience, roadway network, school crossings – nine different warrants.
- From that 2012 study, warrant analysis, it actually got shelved back then to remove the signal. There was some shuffling around, and it kind of got brought back up back in 2015.
- Due to the aging infrastructure of the signal, we wanted to revisit this. We notice there are still low volumes of traffic and lower pedestrian volumes at that intersection.
- We'd like you to consider removing the signal at that intersection.



- I'll go to the fact sheet included in your packet, after the Warrant Analysis. It's put out by the U.S. Department of Transportation – myth vs. reality. I'll just give you a few bullet points.
- It states that unwarranted signals that operate improperly can create situations where overall intersection congestion is increased. It can create aggressive driving behavior. It creates impatient pedestrians as well.
- I know pedestrian safety is a big issue at this intersection, but with this Warrant Analysis it actually takes into consideration the pedestrians. It's not actually warranted for pedestrians, as well.
- Keep going on in this packet – we did a little investigation ourselves. We didn't conduct a full Warrant Analysis, but a couple of weeks ago we went out and looked at peak hour volumes, pedestrian volumes – and it came out to be actually less than the Warrant Analysis of 2012. We believe it's probably due to the Northwestern Energy building being unoccupied. That Warrant Analysis was conducted when the Northwestern Energy building was fully occupied.
- Continuing on in this packet – Commissioner Shaw asked to get some costing analysis done on what it would take to remove the signal. It would cost a total of about \$2,300.
- She also asked if we could provide some information on the cost of maintenance of this signal per year. It is an aging signal, and these are conservative costs based on what we actually have to do, per year, if nothing goes wrong. It turned out to be about \$1,300.
- Another costing question was what it would cost to put up some stop signs at the intersection, along with some cross walk signs. It would cost about \$960. We actually have two stop signs that were required to be in place for traffic to be stopped on Wyoming Street.
- The Warrant Analysis takes into consideration that Broadway would be the through street and Wyoming would be the stop street.
- The very last page is a crude drawing of what it would look like. We have the painted crosswalk across the street, but we'd put up some signage.

Commissioner Shaw stated the following:

- I know you're dealing with a four year old analysis. Things change. The Northwestern Energy building is empty, although we hope to fill it again.
- I don't disagree with the numbers to take down the signal lights. It does cost money to leave them up, flashing red or something like that, that wouldn't cost us anything.
- But what I am concerned about is – I can't imagine anybody in their right mind, I'm sorry to say this, to make Broadway a through street from Main to Arizona, the speed limit is 25 mph. Imagine what that could be like at the intersection of four major businesses. You've got the Thornton building, the Finlen, with not only a restaurant, but condos – the Finlen is full of people. You've got 4C's with children, a bus stop, and a U.S. mailbox receptacle.
- I talked to Jim Kambich and he did a poll of his employees. They were all very upset about not having at least a four-way control at that corner.
- I talked to Frank Taras at Finlen, and he said the same thing.



- Gary Dryden is the Acoma, and the folks over there at Soho – they’re open after-hours. So you’ve got two bars, a restaurant, and Uptown Café *after* hours, and I know a lot of this was not done later day, as far as your number taking.
- When I talked to Brenda Hergot, Executive Director of 4C’s, she actually came here today and I’d ask her to speak about her own situation. I figured these are the folks that are going to be dealing with the consequences of having a through street on Broadway.

Mr. Sandford stated the following:

- If you refer to that fact sheet, on Myth #3, “Installing stop signs on all approaches (four-way stop) to an intersection will always result in fewer accidents.”
- If there is an unwarranted stop sign at an intersection, it can actually create more of a safety hazard and rear-end crashes. Pedestrians may have a false sense of security about crossing the local streets if there’s actually an unwarranted signal or stop control.
- Broadway Street is unwarranted to have a stop sign there. We actually looked at that as part of this Warrant Analysis to take down the signal.
- It can also create re-routing of traffic. People take other side streets and tend to avoid an intersection if a signal or stop sign is in place.
- According to research that I’ve done, and the good people at the Highway Division, it can actually create safety hazards and more traffic accidents.

Commissioner Palmer stated the following:

- What is the plan with the rest of the stop lights Uptown?
- It seems like we’re doing them one at a time, so if we take this one out ... I know we were going to try it at Broadway and Main. That was for awhile flashing red on Main and yellow on Broadway. Maybe just for one day before they stopped it.
- If they take out all of the stop lights, and then people start using Broadway because it’s a through street all the way, making a dangerous situation; and then the state comes along and looks at Park and Main and it doesn’t warrant the stop light there, where are we going to be?
- It seems like we’re going backwards ... instead of ... a community with no stop lights. Even Mayberry RFD had a flashing light.

Mr. Sandford stated the following:

- At Main and Broadway, it actually wasn’t supposed to be flashing at the time. Sometimes they get shorts or electrical malfunctions and just revert to flashing. So that wasn’t ever in the plan to be flashing for a day or anything.
- There has been a Warrant Analysis conducted on that, but it has not been brought to the Council yet. We’re going to see how this one goes first, then bring them up – one at a time, two at a time. See how each of them goes.



- That one contemplates actually having Main Street as a through street, and Broadway would be a stop street. So Broadway would not be a through all the way to Arizona.

Commissioner Palmer stated the following:

- The second part of that is, at Park and Main, is that a state-controlled intersection?

Mr. Sandford stated the following:

- That is a state-controlled intersection. Butte-Silver Bow maintains it, but a Warrant Analysis is currently being conducted because of the Northwestern Energy building.

Commissioner Palmer stated the following:

- Wouldn't it be better to look at the overall picture instead of doing one at a time? And see what it would look like all at once before we make any decisions on one particular stop light?

Mr. Sandford stated the following:

- That's actually one of the warrants that is considered in the Warrant Analysis – the overall picture, overall traffic structure of the area.

Commissioner Sorich stated the following:

- I can probably agree with these numbers on the Analysis between the hours you've done. But it seems after 8:00 p.m. Uptown becomes more active. So I'm not totally convinced that these numbers would be completely accurate if you haven't done any analysis after the 8:00 hour.
- It seems like that corner gets busy after 8:00. You've got Maloney's Bar right around the corner. You've got quite a few establishments in that area.
- So that could be a discussion point.

Commissioner Morgan stated the following:

- Is it possible to check it out with the stop light there? Or is it better to make a decision on this tonight?

Mr. Sandford stated the following:

- Currently it's flashing yellow on Broadway to indicate a through street, and flashing red on Wyoming. That was the test for 90 days to see how that worked.
- And actually leaving the light up there is creating some confusion. The light on Main and Park was a flashing red light in all directions, so I think people thought that one might have been a flashing red in all directions.



- But looking at our 90 day analysis, it seems like if we plugged those numbers in to a full Warrant Analysis, it would warrant taking the stop light out now, as it would back in 2012.

Commissioner Morgan stated the following:

- We hired Dowl in 2012 to review this, and this is one of their things that they do quite often – they study this, and I know that their credentials are there.
- There comes a point where we have to take their credentials for what they’re worth and expect that these people know what they’re doing.
- I do know there are a lot of questions, and people out there that are riding in the area that are probably saying, no, we need to have a stop light.
- It reminds me of a time when I started as a commissioner, when people wanted to have “Children at Play” signs put up everywhere. But people get so used to seeing “Children at Play” signs they forget they’re there.
- That could be the same instance with people forgetting that the stop lights are there, and they are not really realizing they’ve been there for 100 years.
- Change isn’t a bad thing.
- With public safety, they take all of that into account. And I think we need to go with what the experts say.

Commissioner Shaw stated the following:

- I don’t disagree with that. I’m willing to cut our losses and mitigate this. I do believe in studies. In this case, I am not an expert, I don’t know the engineering aspects, and I appreciate what you guys have done.
- But they’re statistics. We’re dealing with a corner. Every intersection is different.
- Everyone in this room knows what that corner is like. There is serious congestion at the corner.
- At this time I would like to call Brenda to give us her opinion.

Brenda Hergot, Executive Director, 4C’s, 101 East Broadway, Butte, Montana, stated the following:

- I appreciate all of the numbers and statistics that were provided because that’s not something I have a background on.
- But after being on that corner, I’d just like to make sure you consider the safety of the people who are there.
- I’m not sure when this was done, exactly what the days were. But we have a number of children and families who are on that corner coming into our building on a regular basis during daytime hours.
- We also have a bus stop in front of the office five times a day. Those folks are going to the apartments upstairs in my building and also behind our building up on Granite Street – they walk up there as well.



- So there's a good number of pedestrians there also.
- The angle parking has posed a little bit of a difficulty. When you're actually at the intersection on Wyoming, because you can't see to the right or left when the vehicles are parked there to see around the trucks that are right in front of the building.
- I would really like you to think about the safety of who's there. And if they have to slow down for a light or stop sign, which ever, then they're slowing down and it's making a safer environment so that people aren't speeding through there and not catching those children and their families who are in and out.

Commissioner Shaw stated the following:

- Everyone knows how I feel. This is my district. It's been my district for ten years. I think I know it better than most of the Commissioners sitting here. I know what we need. I've talked to everyone around in that area and I stand by my conviction on this.

It was moved by Commissioner Shaw, seconded by Commissioner Andersen, to approve removing the signals at the intersection of Wyoming and Broadway, but to put a four-way stop at the intersection; and to go forward to ask the County Attorney to draft the appropriate revisions to the Ordinances.

Commissioner Fisher stated the following:

- I'd just like to weigh in on this. I think the studies are great, and I'm sure Dowl did a good job. But in this particular instance, we have someone who has a business there; Commissioner Shaw has talked to other people there. We got to kind of listen to the people that are in that area.
- If something happens around my house, I would rather me and my neighbors make the decision than have somebody that'd done a study four years ago.
- In this case, Commissioner Shaw polled the neighborhood. The woman came up and spoke on it. I think we got to kind of honor a little bit about what's happening here.
- If you remember here, people who come to the Chambers and speak usually are the ones that get their way.
- And in this case, I'd kind of rather go with what Commissioner Shaw is saying on this, because, I don't live up there, I don't get up there as often.
- I think if Jim Kambich has said, and Taras' people at the Finlen have said, if this is what they want? I think I have to go that way.

Commissioner Henderson stated the following:

- Who does the Traffic Analysis, Nick, you or MDT?



Mr. Sandford stated the following:

- We do some stop sign Warrant Analysis, but we don't have the equipment to do Signal Warrant Analysis. So that's why we have to sub those out to different contractors.

Commissioner Henderson stated the following:

- Do you actually ask any of the neighboring businesses or residents – are they involved in the final decisions by you or MDT?

Mr. Sandford stated the following:

- We do take comments seriously from constituents. But the comment portion is not considered in the Warrant Analysis. Warrants are actually based on numbers and data and facts, instead of what people are feeling out there.
- So, they're definitely taken seriously, and we have to look at what their concerns are, but they're not actually part of the Warrant Analysis itself.

Commissioner McDonough stated the following:

- This question is for Deputy County Attorney Maffei.
- If we approve a motion for a four-way stop on Broadway and Wyoming and it's not warranted, and somebody has an accident on that intersection and it's challenged in court, do we put ourselves in legal harm or liability with putting a four-way stop in an intersection that's not warranted by the State of Montana?

Deputy County Attorney Maffei stated the following:

- Of course, if somebody is hurt, and sues the County, and they do discovery and see that there was a study done that recommended a stop sign at Wyoming and Broadway as a through street – that would be evidence that would perhaps come into the lawsuit. But I can't speculate as to how that may or may not come out.
- But during discovery, if that came out, it could be part of the case.

Commissioner McDonough stated the following:

- I hear everyone's concerns, and I think we're all in tune to safety, but I'm inclined to trust the people that work in this every day – that being the engineers and MDT.
- They've recommended that we take it out, because we don't meet a single threshold.
- Four years ago when the study was conducted, there was full occupancy at 40 East Broadway. And we don't have that yet, again.



A substitute motion was made by Commissioner McDonough, seconded by Commissioner Morgan, to Concur with Communication 16-160 and remove the traffic light at the corner of Broadway and Wyoming Streets, make Broadway a through street, and Place on File.

Commissioner Andersen stated the following:

- You do have to take into consideration the people who are living there.
- And a hypothetical lawsuit – you know, if it’s a four-way stop sign, the likelihood of someone running a stop sign, so they’re going to be at fault, not really the County.
- The only thing I could see if it’s a rear-end accident – again, stop, pay attention to your surroundings. It’s on the onus of the person who caused the thing. Maybe they come back and sue the County for they never should have taken the light out. It’s kind of a silly game to play.
- This Warrant Analysis that the County did, when you look at the numbers and the timeframe, it ends at 5:30. You have restaurants there that are packed after 5:30. There’s a lot of traffic. I live right down the street from there – I walk quite a bit, and I drive through there even more so.
- I would rather it be a through street, because it’s easier for my traffic and driving patterns. However, I feel, especially at night, the traffic is a lot more congested due to the restaurants and everything else.
- The other thing is, when you have the businesses who are asking for it, I think we kind of need to go along with their wishes.
- So I would encourage voting with Commissioner Shaw.

Commissioner Morgan stated the following:

- We have to face it that no matter what we put there is not going to guarantee no accidents are going to happen, and that people need to drive safe, pedestrians need to be safe, and use their own heads and make their decisions as they cross the street or drive their cars.
- So no matter what we put there, it’s not going to guarantee no accidents.

Commissioner Perdue-Dolan stated the following:

- Thank Commissioner Shaw for doing her due diligence and talking to the business owners and the folks who are right by this intersection.
- I know there’s been a lot of talk in Public Works about this issue, and I would just ask Nick, in the future when you’re talking about other lights, stop signs and intersections, I would ask that possibly it would be incumbent upon you and maybe the other folks to possibly work with Community Development or Community Enrichment to do that due diligence as well and talk with the folks who use the streets and intersections because it’s their safety we’re most concerned about.



Commissioner Ralph stated the following:

- Commend Nick for all the due diligence that he has done – great job.
- Everybody agrees there's a way to make the intersection safer. We can't agree on which way that is.
- I urge everyone to vote for whichever way they believe will make that intersection as safe as possible.

Commissioner Foley stated the following:

- Nick, you said for 90 days the light's been flashing yellow going over Wyoming and red going up Wyoming.
- How many accidents have occurred because of that?

Mr. Sandford stated the following:

- There have been zero accidents since that time.

Commissioner Foley stated the following:

- We have to base decisions not on what we think. We hire you as an engineer for Butte-Silver Bow. We hire companies to do analysis. We have to go with – what people, I mean the experts – if we're all experts up here on every issue, that's fine. And I'm not saying not to listen to the public.
- Because, Commissioner Dolan, the reality is Nick is just as concerned about safety – that's why he's come before us. You have to be careful saying by not talking to residents you're putting people's safety in harm's way.
- The reality is, take for example the Thornton Building. You can go watch on any given day, and they'll go up Wyoming Street and cross an intersection that at one time had a stop light there. We took that out. And they're crossing up to their cars, as far as I know, and there has been very little if any accidents occurred in that intersection after taking it out.
- Again, it's an issue of change and not wanting to accept that Butte, Montana is not the metropolis that we were in the 1950s and 60s. The traffic volumes are not what they were when these stop lights were put in.
- We are trying to make progress, and whether it's acceptable or not – and as far as people speeding over Broadway Street – I mean, I don't see that happening there – and base our decisions, again, on facts.
- I've gone through a similar situation. Down on Platinum and Excelsior, the big issue over there. Let's put a four-way stop. People said oh don't do that, that's terrible. It's probably been the safest move that we've ever made because we looked at the analysis, we've looked at what's warranted, and we have a positive result.



- I thank the Public Works Department for moving forward for what your job is supposed to be doing and giving us the right information.

Commissioner Perdue-Dolan stated the following:

- I wanted to clarify – I was *commending* Nick on the work that they’ve done and thought it would be an enhancement to suggest in the future when they were doing future analysis when they’re talking about other lights, stop signs and intersections, to work with Community Development or Community Enrichment and to speak with folks that are in those areas.
- So it was nothing detrimental, Commissioner Foley, it was a thumbs up to Public Works. It was a suggestion.

Commissioner Andersen stated the following:

- One of the reasons we put a four-way on that intersection was because of the immense speed that people are carrying down the hill and we wanted to have that four-way stop sign to slow people down.
- Living on Broadway, it’s a very narrow street in some places, so to be able to stop some of those cars going through there, slow them down for a little while; it’s very much a matter of health and safety, and a very good idea, as it was on Platinum.

Commissioner McDonough stated the following:

- Since the Warrant Analysis was conducted, we’ve implemented angle parking on Broadway Street, which has severely condensed the flow-through traffic.
- If anything, that I’ve noticed, people drive slower because they’re going to see if someone’s going to pull in or back out in front of them. Which has actually made it safer. We’ve provided more parking and people move slower.

Commissioner Ralph called for the question, seconded by Commissioner Morgan, and it passed by a unanimous verbal vote.

Chief Executive Vincent stated the following:

- ***To restate the motion, there was a substitute motion to Concur with the recommendation and Place on File.***
- ***We’ll make this a roll call vote. Everybody cast their votes. All votes in? Clerk can you please record.***

The motion tied by a roll call vote of 6 yea and 6 nay. Commissioners Andersen, Fisher, Henderson, Palmer, Sorich and Shaw voted nay.



Chief Executive Vincent stated the following:

- Somehow I knew that was going to happen.
- I want to ask a couple of questions of Nick before I cast my tie-breaking vote. You did allude to the fact that this signal was at the end of its life.

Mr. Sandford stated the following:

- Yes, it's heading toward the end of its life.
- The most recent drawings that we have of it are from 1968. We're not sure if that's when it was put in or when it was updated, but it's getting toward the end of its life for sure.

Chief Executive Vincent stated the following:

- If that light were to be replaced, it would have to be on our dime given that it's not warranted, correct?

Mr. Sandford stated the following:

- Yes, it would be on our dime.
- To actually fully upgrade a signal would be roughly \$170,000.

Chief Executive Vincent stated the following:

- *That being said, I'm going to break the vote in favor of the motion to Concur with the recommendation and move forward with what's been determined.*
- *I would urge that this is not anything in regards to the concerns that were stated tonight, but more so that we've had a 90 day period when we tested out the safety up there. We have heard that there's no accident reports at this point.*
- *We'll move ahead. I don't think that it makes sense to keep the signal up any longer, just as much as it doesn't make any sense to put up a four-way stop when it's not warranted.*
- *If we run into some issues, we can always revisit this in the future.*
- *That being said, it'll be recommended and Placed on File.*
- *But I guess, I don't know if ... the vote's been cast. There's nothing more to say. Discussion's over.*

Commissioner Perdue-Dolan stated the following:

- I just made a mistake with my voting. Substitute motion, so that's why I was ...



Chief Executive Vincent stated the following:

- Oh, ok. So do you need to re ...

Commissioner Perdue-Dolan stated the following:

- Can we re-vote? Only because I meant to ...

Chief Executive Vincent stated the following:

- You have to make a Motion to Reconsider.

A Motion to Reconsider was made by Commissioner Perdue-Dolan, seconded by Commissioner Fisher.

Chief Executive Vincent stated the following:

- Given that there's no prevailing side, either side can make a Motion to Reconsider?

Deputy County Attorney Maffei stated the following:

- I believe that is correct.

Chief Executive Vincent called for all those in favor.

The Motion to Reconsider passed by a unanimous verbal vote.

Chief Executive Vincent called for any opposed.

Commissioner Fisher stated the following:

- I don't think you asked if anyone wanted to change their vote prior to the roll call vote.
- If you would have done that, I think we would have had the correction made prior to the vote.

Chief Executive Vincent stated the following:

- We've got the opportunity to do so now. So let's re-vote on the ...
- This is on the substitute motion to Concur with the recommendation and Place on File.
- Are there any questions before cast your vote?

Commissioner McDonough stated the following:

- As a point of order, did the Motion to Reconsider even pass?



Chief Executive Vincent stated the following:

- It did pass. I said, all those in favor ...

Commissioner McDonough stated the following:

- There was no follow up to ask if there was a nay vote on a Motion to Reconsider to unwind everything.
- And that's why I was ...
- Did I miss it?

Chief Executive Vincent stated the following:

- I guess you missed it.
- It's the opinion of the Chair that the vote was given and the Motion to Reconsider passed.
- This is a re-vote on the same motion.
- Please cast your votes.
- All votes in.
- Clerk can you please record?

Roll call vote of 5 yea and 7 nay. Commissioners Andersen, Fisher, Henderson, Palmer, Sorich, Perdue-Dolan and Shaw voted nay.

Chief Executive Vincent stated the following:

- The motion does not pass.
- And it goes back to the original motion. And to restate the original motion, Commissioner Shaw?

It was moved by Commissioner Shaw to authorize the removal of the signal lights and to put up a four-way stop at the intersection, and to Hold it in Abeyance while we have the County Attorney's office do the appropriate changes to the Ordinances.

Chief Executive Vincent stated the following:

- It's already been made and seconded.
- So please cast your votes if there's nothing on the question.
- Does anyone wish to change their vote?
- Seeing none, clerk can you please record?

Roll call vote of 9 yea and 3 nay. Commissioners Walker, Morgan and Foley voted nay.



Chief Executive Vincent stated the following:

- Ok, motion prevails.

Segregation – #9, Communication No. [16-185](#)

Carl Hafer, 6050 Porter, Butte, Montana, requesting Council of Commissioners and the Chief Executive address reasoning with regard to Grove Creek contamination and future plans.

Commissioner Shaw stated the following:

- I talked to Carl right before the meeting, and I told him he'd have the opportunity to speak at this meeting.
- I explained to him that we were referring it to the Technical Review committee the Environmental portion of that; and that we would hold a place holder in the Committee of the Whole.

Chief Executive Vincent stated the following:

- Carl, if you don't wish to speak tonight, you don't have to. I just wanted to give you the opportunity.

Mr. Hafer stated the following:

- I have already talked to Commissioner Shaw and understand it will be Held in Abeyance and address it at a later date.

It was moved by Commissioner Shaw, seconded by Commissioner Walker, and passed by a unanimous verbal vote to Concur with the recommendation on Communication No. 16-185 to refer to Technical Review Committee (Environmental) and hold in the Committee of the Whole until further review.

Segregation – #13, Communication No. [16-190](#)

Lori Casey, Assistant Planning Director, Butte-Silver Bow Planning Department, requesting Council of Commissioners approve the Final Plat of the Hondo Acres Minor Subdivision, with all thirteen (13) conditions as stated. [Staff Analysis](#). [Plat](#).

Commissioner Henderson stated the following:

- I see Jon Sesso here. I don't know where this is, and I didn't have a computer today, so I don't know where it's at.



Jon Sesso, Director, Butte-Silver Bow Planning Board stated the following:

- The five-lot Minor Subdivision is off the North Buxton Road. At least two of the lots are part of the property that is our Tax Increment Financing District and REC's property.
- So you know where the TIFD is and REC is in Section 35, so this is right below Section 35 – the next township.

It was moved by Commissioner Henderson, seconded by Commissioner Ralph, and passed by a unanimous verbal vote to Concur with the recommendation on Communication No. 16-190 and Place on File.

SECTION 3 COMMUNICATIONS TO BE READ AND ACTED UPON

1. [16-186](#) Wayne Noem, Secondary Roads Engineer, Montana Department of Transportation, requesting Council of Commissioners and the Chief Executive to approve changes to the Butte District Secondary Roads Capital Construction Priority List, complete two ballots and return by May 27, 2016. [Priority List](#). [Ballots](#).

Mr. Noem stated the following:

- What I've brought before you is a request for a priority change to the 2005 Butte District Capital Construction Program.
- In 2005, the nine counties from MDT's Butte District approved a priority list. As we go down, top to bottom, on the list, Park County's project came up. That project was to correct a slide on Mission Creek, south of Livingston.
- We had our GeoTech people go look at it. They found out the small 50' slide was inside a quarter mile slide was inside a one mile long slide.
- With their recommendation, we decided not to go forward with the project, because if we open that up, we could be finding we need to do a lot more than can feasibly be done.
- Their recommendation was to do minor spot repairs, keep the road open as best as possible, and not create a larger problem.
- Along with that, Park County asked to drop Mission Creek from the secondary roads program.
- They chose Pine Creek to be functionally classified through MDT, and then requested through the Transportation Commission to have that added to the secondary program.
- That was approved March 24th, then Park County requested to have their priority changed from Mission Creek to Pine Creek. That's the first request.



- The second request is MDT's priority on secondary 540, also south of Livingston. That project was to go from the intersection of Chico Hot Springs down to about mile post four.
- That project is also unfeasible to do because people in that area do not want anything done to their road – not in their front yard, not in their backyard – they don't want anything anywhere. Other than fix the potholes, put a chip seal on it and keep it striped. That's all they want done on their road. They do not want it to be an alternate route to get down to the park. They want to keep everybody on the U.S. Highway.
- That is a project that is unconstructable due to public opinion.
- MDT is requesting to do two larger pavement preservation projects – ones that they would not normally be able to do. MDT is only allowed about one million dollars a year in the Butte District to do pavement preservation.
- This will allow us to get a lot of roadway back up to snuff in a short amount of time.
- With these three projects being in the two to two and a half million dollar range, that will allow me to move those projects around, fit them into the program, and actually get them through and out the door even faster than a larger project.
- I can find smaller holes and be able to move through the priority list faster.

Commissioner Shaw stated the following:

- I invited you here to explain that these aren't really Butte areas, but we are in a district?

Mr. Noem stated the following:

- That is correct. In the 1999 Legislature, they changed how the secondary roads program operated. It used to be on an individual county basis. They changed that, by law, 60-3-206 to where they would lump together the counties within the five MDT districts.
- Within your district, there are nine counties.

Commissioner Shaw stated the following:

- The reason you sent this to us, I believe, is you need signatures of the Chief Executive a couple of Commissioners, as just a ... to show our good will to approve those, even though we don't really understand, maybe, all those areas, not being in Butte. Is that the case?

Mr. Noem stated the following:

- Yes, it is. In order to make a priority change on the priority list, we need to have majority consent of the nine counties within the District.



Commissioner Fisher stated the following:

- Now I read in these documents that the new projects are not going to be done in Park County – they’re going to be done in Beaverhead County. Is that correct?

Mr. Noem stated the following:

- Correct. One is going to be in Gallatin County and one is going to be in Beaverhead County.

Commissioner Fisher stated the following:

- There would be no chance that Butte-Silver Bow could get one of them done in our town?

Mr. Noem stated the following:

- That is not the recommendation that the MDT district, Butte district, gave forward to me.
- The project that’s being done in Butte-Silver Bow is Brown’s Gulch. That is actually number one on the priority list. That project is going to be, should get to contract in 2018. We’re going to replace two bridges and reconstruct about a mile of road out there.

Commissioner Fisher stated the following:

- I notice the one project in Beaverhead County was ranked, like, number eight.
- The ones you dropped were higher rated projects. And I don’t see any Butte-Silver Bow projects rated in the top ten.
- Will this move another project, by doing the Beaverhead County, the Gallatin County – will this move some of the Butte-Silver Bow projects back onto the priority list?

Mr. Noem stated the following:

- It will not. In order to add projects to the list, Butte-Silver Bow would have to request that.
- The operating procedure that we have guidelines in place, we have worked through with the counties, and MDT and MACO have created a priority list, work it from top to bottom, construct the projects as they become available and funding becomes available.
- Once we get to the bottom of the list, we create a new list.
- The original list was done in 2000. This 2005 list is exactly ... what had happened, we had come to the bottom of the original list, created a second list, now we’re working on the second list.



Chief Executive Vincent stated the following:

- Just so we know, when is the next time the list comes up for reprioritization?

Mr. Noem stated the following:

- That's unknown. It depends on funding levels, it depends on size of projects. There's a lot of variables to it.
- I would imagine it's going to be at least ten years before another priority list comes up.
- Unless projects keep getting smaller and we can get them out the door faster.
- This time it happens to be that our one project was about eight million dollars, and the two projects we are turning in are less than five. So, we are making headway.

It was moved by Commissioner Ralph, seconded by Commissioner Andersen, and passed by a unanimous verbal vote to Concur with Communication No. 16-186 and Place it on File.

2. [16-203](#) Gayle Clark, Divide School District No. 4 Business Clerk, requesting Council of Commissioners to support the removal of the Divide School from the Isolation List with the Montana Office of Public Instruction. [Letter of Support. Application.](#)

Ms. Clark stated the following:

- I am here tonight on behalf of Divide School District No. 4.
- We are asking for your signature in supporting keeping us on the isolation status list.
- To clarify the confusion there, this is something that is conducted every three years. If your ANB numbers fall below ten for two consecutive years, you will come off of that isolation status and be remote.
- So without a signature and an application submitted by the District, it looks like the levy would go on to the taxpayers for about \$18,674.
- At this time we are just asking for your support in helping us out with the funding of Divide School District No. 4.

Commissioner Walker stated the following:

- How important is this to the Divide school?

Ms. Clark stated the following:

- This is significant for us. Right now, with the upcoming school year we have about six kids enrolled. There are some other students and families that are interested in coming.
- Without this funding, basically at this point, through the 2015-2016 school year, we are in isolation status. Which is great. It's fully funded by the state.



- Without this, it gets us cut in half. The amount that would go to the taxpayers to the ballpark of about \$167 every six months. That’s a significant amount.

Commissioner Ralph stated the following:

- I just want to clarify. The letter says, “We’re asking for support on removing the Divide school”
- We actually want to keep it on the isolation list. Is that correct?

Ms. Clark stated the following:

- That is correct. Through this year, we are on isolation, but without the signature, it removes us from that list, under that status. And that’s what we’re asking for – your support to put us back on isolation, not on the list that would remove us.

It was moved by Commissioner Ralph, seconded by Commissioner Andersen, to Concur with Communication No. 16-186 and Place it on File.

On the question, Commissioner Palmer stated the following:

- I think that is not what we want to do. If we concur with the recommendation in the communication, it will take them off of isolation status.

A substitute motion was made by Commissioner Palmer, seconded by Commissioner Morgan, to authorize the Chairperson to sign the application to keep the Divide school on the isolation status list and Place on File.

Commissioner Shaw stated the following:

- I’m going to ask Gail.
- We need to make sure we’re voting on the right thing.

Ms. Clark stated the following:

- I did get this clarified today from the Office of Public Instruction in case there were some questions about that.
- This came from Mica Morella (sp?), and she’s the head of the finance department down there. She states, “Divide is currently isolated. Isolation is approved for three years. After that time, if the budget limit, ANB, is less than ten for two consecutive years, isolation needs to be reapplied for.”
- So that’s what we’re asking for – to remain in isolation and not be taken off.



Commissioner Morgan stated the following:

- Just to verify, the communication says, “Gayle Clark, Divide School District No. 4 Business Clerk, requesting Council of Commissioners to support the removal of the Divide School from the Isolation List with the Montana Office of Public Instruction.”
- That’s not what you want us to do?

Ms. Clark stated the following:

- Yeah, that’s why I’m clarifying right now. Because basically without that application, without that signature, it takes us out of isolation.

Commissioner Morgan stated the following:

- Palmer’s motion is ok?

Ms. Clark stated the following:

- Yeah.

The Substitute Motion passed by a unanimous verbal vote.

SECTION 4 ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL BILL NO. [16-6](#)
ORDINANCE NO. [16-6](#)

AN ORDINANCE AMENDING SECTION 13 OF ORDINANCE NO. 549 AND CHAPTER 15.04 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “BUILDING CODE;” SPECIFICALLY AMENDING SECTION 15.04.040 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. [Redline](#).

2. COUNCIL BILL NO. [16-7](#)
ORDINANCE NO. [16-7](#)

AN ORDINANCE AMENDING SECTION 3 OF ORDINANCE NO. 431 AND CHAPTER 13.28 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “CHARGES AND FEES;” SPECIFICALLY AMENDING SECTIONS 10.28.210 AND 10.28.220 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. [Redline](#).



3. COUNCIL BILL NO. [16-8](#)
ORDINANCE NO. [16-8](#)

AN ORDINANCE AMENDING SECTION 5 OF ORDINANCE NO. 67 AND CHAPTER 2.40 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “PLANNING BOARD;” SPECIFICALLY AMENDING SECTION 2.40.050 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. [Redline](#).

4. COUNCIL RESOLUTION NO. [16-21](#)

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 GENERAL FUND RESERVES, WHICH WILL BE REMITTED BACK TO THE GENERAL FUND AFTER SALE OF GOLF PRO SHOP INVENTORY, TO THE PARKS AND RECREATION DEPARTMENT-GOLF COURSE BUDGET AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

5. COUNCIL RESOLUTION NO. [16-22](#)

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE HONDO ACRES 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 5 ORDINANCES SECOND READING

1. COUNCIL BILL NO. [16-4](#)
ORDINANCE NO. [16-4](#)

AN ORDINANCE AMENDING SECTION 17.060.030 OF BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) WHICH SECTION ADOPTED THE ZONING MAP OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR A CHANGE TO THE OFFICIAL ZONING DISTRICT MAP BY REZONING APPROXIMATELY 10 ACRES FROM NZ (NOT ZONED) TO OS-D (OPEN SPACE DEVELOPABLE ZONE), COMMONLY KNOWN AS THE WALKERVILLE BASEBALL FIELD AND THE LEXINGTON MINE YARD; AND TO REZONE APPROXIMATELY 107 ACRES FROM NZ (NOT ZONED) TO OS-C (OPEN SPACE CONSERVATION ZONE), COMMONLY KNOWN AS THE ALICE KNOB, ALICE PIT, GRANITE MOUNTAIN AND MISSOULA GULCH; AND TO REZONE APPROXIMATELY 6 ACRES FROM NZ (NOT ZONED) TO C-2 (COMMUNITY COMMERCIAL ZONE), COMMONLY KNOWN AS BLAINE COMMUNITY CENTER, SHERMAN SCHOOL AND CERTAIN PROPERTIES ALONG WEST DALY KNOWN AS 1, 7, 11, 13, 303, 307, 309 WEST DALY; AND TO REZONE APPROXIMATELY 358 ACRES



FROM NZ (NOT ZONED) TO R-2 (TWO FAMILY RESIDENCE ZONE), BOUNDED ON THE NORTH BY ALICE STREET, ON THE WEST BY THE WEST BOUNDARY OF THE CITY LIMITS OF WALKERVILLE, ON THE EAST BY SERAPH POINT AND ON THE SOUTH BY RYAN ROAD AND O'NEILL STREET; AND TO REZONE APPROXIMATELY 727 ACRES FROM NZ (NOT ZONED) TO R-1S (ONE FAMILY SUBURBAN ZONE), COMMONLY LOCATED IN SECTION 1, TOWNSHIP 3 NORTH, RANGE 8 WEST, OF THE P.M.M. OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, PROVIDING FOR THE REPEAL OF ALL PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Council Bill No. 16-4, Ordinance No 16-4 be placed on second reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 12 yea and 0 nay.

SECTION 6 ORDINANCES AND RESOLUTIONS FINAL READING

1. COUNCIL RESOLUTION NO. [16-18](#)

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 11, TOWNSHIP 3 NORTH, RANGE 8 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.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Resolution No. 16-18 be placed on final reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 11 yea and 0 nay. Commissioner Palmer abstained.

2. COUNCIL RESOLUTION NO. [16-20](#)

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING THAT PORTION OF THE ALLEY LOCATED ADJACENT TO LOTS 1 THROUGH 14 AND ADJACENT TO LOTS 15 THROUGH 28 IN BLOCK 6 OF THE FAIRVIEW ADDITION TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA, PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

It was moved by Commissioner Shaw and seconded by Commissioner Morgan that Resolution No. 16-20 be placed on final reading and be passed, having been deemed fully read at length. The motion passed by a roll call vote of 12 yea and 0 nay.



PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

Commissioner Sorich stated the following:

- This Saturday there is going to be a large dumpster behind the Racetrack Fire Hall as part of the Beautify Butte Program.
- Organizers asked that the dumpster be supervised to make sure nothing is thrown in there that doesn't belong.
- I'm going to be there, and if you'd like to help, please come between the hours of 8:00 a.m. to 3 p.m.

- With regard to the Calendar of Other Meetings, the Fair Board will be meeting May 9th, as noted on the Butte-Silver Bow Web site.
- It's going to be at 6 p.m. at Perkins or the HOPS.

ADJOURN

It was moved by Commissioner Shaw, seconded by Commissioner Morgan and passed with a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 9:00 p.m.

MATT VINCENT
CHIEF EXECUTIVE

ATTEST:

CLERK & RECORDER

