ROLL CALL
11 Present 1 Absent - Jim Fisher is excused

PRAYER AND PLEDGE
John Sorich

APPROVAL OF THE MINUTES
March 16, 2021 Regular Meeting Agenda
Cindy Shaw makes a motion to approve the minutes, Shawn Fredrickson seconds the motion
11 yea 0 nays

ITEMS NOT ADDRESSED ON THE AGENDA

CHIEF EXECUTIVE’S REPORT
J.P. Gallagher: We had a Proclamation for child abuse information meeting this morning and please know that we still have issues in our community.
We are issuing a license refund to all businesses due to COVID. It will give some relief to our businesses. We feel that it is fair to everyone and not put us into a tax situation.
CD Agreement: Has asked John Sorich to be a part of the process. There are some moving parts, and he will be report on what exactly is going on with the CD. We will not have open forums we will have representation and then they will come back and inform the public.
We are encouraging people to get the vaccine. Covid has not left our community. We are at 8 cases per 100,000. Please continue to wear masks.
Concerning ARCO we ask that we have projects read and we want to make sure we are ready.
Department heads are on top of this so that when it comes forward to us, we will be ready.
The IT department has done a great job the past year and it is nice to be back in person. The IT staff has made sure that we still were able to move forward with our meetings and appreciates that.

PUBLIC COMMENT ON ANY ITEMS ON THE AGENDA
Phil Barto: 818 Mountain Street and would like to make the appeal. We would like to have th cost of the land purchase taken away. We were approved in January to purchase the property, but it has been rescinded. The survey cost of $3950, we just want to purchase the ½ acre to put a garage on it. We feel it is not right to change the agreement. We are good citizens, and we don’t have a lot of money and would appreciate if you waived the fees.

CALL INS ARE WELCOME @ 497-5009

WRITTEN COMMENTS WELCOME:
public-input@bsb.mt.gov

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

BID OPENINGS

1. COMMUNICATION NO. 2021-126

City and County of Butte-Silver Bow

1 | Page
Kristen Rosa, TIFID Administrator requesting Council of Commissioners authorization to schedule a bid opening for on April 7, 2021 for the Port of Montana/Montana Connections Rail Expansion project.
Mark Neary opens bids along with Kristen Rosa.
Rail Services, Englewood CA $8,631,104.45
Earth Work Solutions Gillette WY $7,337,916.72
Montana Civil Contractors Belgrade MT $8,840,021.55
Sema Construction, Centennial CO $8,936,740.53
Rail Works Track Systems Inc. Chehalis WA $8,393,486.00
Engineers estimate 11.6 million. Some minor revisions were made and not sure of the revised estimate.
Sorich: How many miles of track?
Rosa: About 3 miles of track that will be parallel tracks in about 5 rows.
Cindy Shaw makes a motion to refer the bids to the TIFID Administration and wait for their recommendation to this Council. Shawn Fredrickson seconds the motion. 11 yea 0 nay

2.COMMUNICATION NO. 2021-127
Kristen Rosa, TIFID Administrator requesting Council of Commissioners authorization to schedule a bid opening for on April 7, 2021 for the Sugarloaf Loop construction project in Montana Connections.
R&S Johnson Construction Anaconda MT $2,172,787.30
Hoffman's R&M Butte MT $2,600,000.00
Mungus Co. Anaconda MT $1,854,338.82
Engineers Estimate $2.3 Million
Cindy Shaw makes a motion to refer the bids back to the TIFID administration and wait for their recommendation. Shawn Fredrickson seconds the motion. 11 yea 0 nay

SECTION 2: CONSENT AGENDA Eric Mankins segregates communication no. 2021-166.
Cindy Shaw makes a motion to approve the consent agenda with the exceptions of 2021-166 Shawn Fredrickson seconds the motion. 11 yea 0 nay
A. COMMITTEE REPORTS
   1. COMMITTEE OF THE WHOLE MEETING REPORT
   2. FINANCE & BUDGET COMMITTEE MEETING REPORT
   3. PUBLIC WORKS COMMITTEE MEETING REPORT
   4. JUDICIARY COMMITTEE MEETING REPORT

B. COMMUNICATIONS

1.COMMUNICATION NO. 2021-144
Mollie Maffe, Deputy County Attorney requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Easement for an overhead pneumatic tube for Glacier Bank's remodel of its 1880 Harrison Avenue Bank and Drive-up facility.
2021-144 Easement
Concur and Place on File

2.COMMUNICATION NO. 2021-145

City and County of Butte-Silver Bow 2 | P a g e
Leslie Clark, Human Resource Director requesting Council of Commissioners concurrence to schedule a presentation on April 14, 2021 for the July 1, 2021 Butte-Silver Bow Health Insurance renewal.
*Hold in Abeyance*

3. COMMUNICATION NO. 2021-146
Mary McCormick, Historic Preservation Officer requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign an agreement between Butte-Silver Bow and the Montana State Historical Society for the period beginning April 1, 2021 and ending March 31, 2022. The grant is in the amount of $6000.
*2021-146 Agreement
Concur and Place on File*

4. COMMUNICATION NO. 2021-147
Aubrey Japp, Assistant Director BSB Public Archives requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign a disposal request for Justice Court’s monthly reconciliation reports, bank statements and cash receipts, encompassing the years 1964-2011.
*2021-147 Disposal Request
Concur and Place on File*

5. COMMUNICATION NO. 2021-148
Cyle Lundsfordhodson, ILT, USA Assistant Operations Officer requesting Council of Commissioners permission to host the Change of Command Ceremony at the Original Mine Yard in Uptown Butte, on May 5, 2021 from 0600 to 1400 hours for Major Jason Castleberry USAF.
*Concur and Place on File*

6. COMMUNICATION NO. 2021-149
Leslie Clark, Human Resources Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign a Memorandum of Understanding (MOU) between the City-County of Butte-Silver Bow and the Teamsters, Local No. 4, representing the Butte-Silver Bow Parks and Recreation Teamsters.
*2021-149 MOU
Concur and Place on File*

7. COMMUNICATION NO. 2021-150
Brian Doherty, Fire Chief requesting Council of Commissioners permission to schedule a Public Hearing for Wednesday, April 21, 2021 for the purpose of amending the Fiscal Year 2020-2021 Fire Department budget to allow for increased expenditures of unanticipated revenue.
*Hold in Abeyance*

8. COMMUNICATION NO. 2021-151
Leslie Clark, Human Resource Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Master Services Agreement and Business
9. COMMUNICATION NO. 2021-152
Danette Gleason, Finance and Budget Director requesting Council of Commissioners review and note that the Finance & Budget Director has completed the obligations to report to the Council of Commissioners under the Procedures Regarding Municipal Securities Disclosure and place on file.
Concur and Place on File

10. COMMUNICATION NO. 2021-153
Danette Gleason, Finance and Budget Director requesting Council of Commissioners review of the tentative timetable concerning the fiscal year 2022 budget process. Over the next few months, the Chief Executive’s Office and Finance & Budget Department will continue to work with all the Departments on the annual budget to present the Chief Executive's recommended budget to the Council in late June.
Note and Place on File

11. COMMUNICATION NO. 2021-154
Danette Gleason, Finance and Budget Director requesting Council of Commissioners for time on the Finance & Budget Committee agenda on April 21st to review budget processes and procedures, State of Montana Budget Act, and the required timeline. She is also requesting this meeting be scheduled for 6:30 p.m. rather than the normal 7:00 p.m. start time.
Concur and Place on File

12. COMMUNICATION NO. 2021-155
Danette Gleason, Finance and Budget Director requesting Council of Commissioners review the Landfill Financial Assurance document for fiscal year 2020. the document demonstrates Butte-Silver Bow's compliance related to closure/post closure costs for the landfill. This report must be submitted to the Department of Environmental quality on an annual basis.
2021-155 Landfill Financial Assurance Part One
2021-155 Part Two
Concur and Place on File

13. COMMUNICATION NO. 2021-156
Leslie Clark, Human Resource Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Memorandum of Understanding (MOU) between the City-County of Butte-Silver Bow and the Laborers' International Union of North America, Local No. 1686.
2021-156 MOU
Concur and Place on File
14. COMMUNICATION NO. 2021-157
George Everett, Mainstreet Uptown Butte Executive Director requesting Council of Commissioners permission to temporarily close to vehicle traffic one block of West Park Street between the intersection of Park and Main and Dakota Street to hold the Butte Farmers' Market each Saturday from 8:00 a.m. to 1 p.m. from May 15th through October 2nd, 2021.
Concur and Place on File

15. COMMUNICATION NO. 2021-158
Mark Neary, Public Works Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Notice of Award for the 2020 CIPP Project.
2021-158 CIPP Notice of Award
Concur and Place on File

16. COMMUNICATION NO. 2021-159
Mark Neary, Public Works Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Purchase Agreement between Butte-Silver Bow and RDO Equipment for a Backhoe for the Water Utility Division.
2021-159 Agreement
Concur and Place on File

17. COMMUNICATION NO. 2021-160
Mark Neary, Public Works Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Notice of Award and Agreement for the 2021 Roads Mill / Fill Project.
2021-160 Agreement
2021-160 Gilman Notice of Award
Concur and Place on File

18. COMMUNICATION NO. 2021-161
George Skuletich, BSB Under Sheriff requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the HDR Task Order for BSB Detention Center Upgrade Programming Support 2021 for the PLC Project.
2021-161 Task Order 24
Concur and Place on File

19. COMMUNICATION NO. 2021-162
Pat Holland, Government Buildings Manager requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the HDR Engineering Task Order for BSB Government Buildings ON-Call Support for SCADA and PLC Systems.
2021-162 Task Order
Concur and Place on File

20. COMMUNICATION NO. 2021-163
George Skuletich, BSB Under Sheriff requesting Council of Commissioners concurrence and
authorization for the Chief Executive to sign the HDR Engineering Task Order for BSB Detention Center Improvements Project Management and Support.

2021-163 Task Order
Concur and Place on File

21. COMMUNICATION NO. 2021-164
Lori Casey, Planning Director requesting Council of Commissioners authorization to schedule a Public Hearing on April 21, 2021 for the purpose of amending the FY2020-2021 Code Enforcement budget.
Hold in Abeyance

22. COMMUNICATION NO. 2021-165
Mark Neary, Public Works Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the task order from WET for the reconfiguration of the stormwater infrastructure on East Park Street.
2021-165 Notice to Proceed
Concur and Place on File

23. COMMUNICATION NO. 2021-166
Carol Grigg, 818 Mountain Street Butte MT requesting Council of Commissioners permission for a survey expense to be credited towards the purchase price of property located at 818 Mountain Street. This is pertaining to building a garage adjacent to our home.
2021-166 Letters
Concur and Place on File

Eric Mankins: Mr. Barto called in, but I would like to hear from Lori Casey.
Lori Casey: This is not an unexpected fee. In September Mr. Riordan denied the recommendation. This is a 130-acre parcel of land. When you survey the land, you have to survey the entire piece of land. They were never dedicated roads to BSB. In August they got a map of the extent of the survey and how much it would be. They were advised to follow the policy requirements because we had the land that was encumbered.

Mankins: Do we have the buy sell agreement?
Casey: We don't have a buy-sell, because they have to survey the land and it will define how much property they will be getting. About 2000 square feet.
Mankins: The $900 survey from Pioneer that they paid for, is that not the survey?
Casey: No that is not the survey. That was a preliminary survey only.
Riordan: This property is from ARCO, is that correct?
Casey: Yes, either ARCO or one of the mining companies.
Riordan: When the property was transferred was there a survey already done?
Casey: No, when they accepted a 2006 allocation agreement, there was no survey done.
Callahan: Now that is it surveyed; will other property owners have to get a survey done.
Casey: no this is associated with the Barto's property. These large parcels need to be looked at and get them into an acceptable piece of land that someone could develop.
O'Neill: the .55 acres that they want to buy who chose that?
Casey: not sure where the .55 is coming from.
O'Neill: The first $900 survey they got and them the expensive survey is for the garage?
Casey: not sure what the $900 survey was for. The actual survey was to get a certificate of survey for $5000, was to put pins in.
O’Neill: Who picked Pioneer them or us.  
Casey: The Barto’s are to choose the firm.  
Sorich: What does Dori mean by this should be a benefit to BSB County?  
Casey: We could try to help save them by having them not survey the rest of the 130 acres.  
Mankins: What is the total cost for the survey?  
Casey: 2,400 to purchase the land.  
Mankins: They will pay $5250 for the survey?  
Casey: Yes that is what they supplied to you from Pioneer Tech.  
Mankins: To increase our tax base and survey streets and clean up street boundaries doesn’t it seem like a lot of money for 2396 sq feet?  
Casey: It is not cleaning up our streets. Buffalo and main street will still be a part of the rest of the acreage. We are following the adjacent landowner policy. The planning department does not have the authority to waive that requirement, it has to be done through Council.  
Mankins: Casey does an excellent job, we are creating a track for BSB and realigning the boundaries with the track, and that comes from an expert.  
Shea: They paid the $900 for survey, Mr. Barto asked for $2250 dollar to be credited, can you break down what needs to be credited.  
Casey: The $900 is technically not a survey.  
Mankins makes a motion to place 2021-166 concur and place on file, Cindi Shaw seconds the motion. 9 yea 2 nay

24. COMMUNICATION NO. 2021-167  
Trevor Peterson, Arborist, Parks and Recreation Department requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Butte-Silver Bow Parks and Recreation Department’s Arbor Day Foundation 2020 Tree City USA Application.  
2021-167 Application  
Concur and Place on File

25. COMMUNICATION NO. 2021-168  
Eric Hassler, requesting Council of Commissioners authorization to schedule a Public Hearing on April 21, 2021 for the purpose of amending the Fiscal Year 2021 ARCO Source Area and Stormwater budget.  
Hold in Abeyance

26. COMMUNICATION NO. 2021-169  
Karen Byrnes, Community Development Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Development Agreement approved by the Harrison Avenue South URD (HAS URD) with Montana Mini Storage LLC.  
2021-169 Agreement  
Concur and Place on File

27. COMMUNICATION NO. 2021-170  
Karen Byrnes, Community Development Director requesting Council of Commissioners concurrence and authorization for the Chief Executive to enter into a 2-year contract with the Petunia Factory for the services of Flower Maintenance Coordinator.  
2021-170 Agreement  
Concur and Place on File

City and County of Butte-Silver Bow
28. COMMUNICATION NO. 2021-171
Pat Holland, Government Buildings Manager requesting Council of Commissioners concurrence and authorization for the Chief Executive sign the Professional Services agreement regarding the previously budgeted Butte Detention Center Fire Control Panel.
2021-171 Agreement
Concur and Place on File

SECTION 3: ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL BILL NO. 2021-04
ORDINANCE NO. 2021-04
AN ORDINANCE AMENDING TITLE 15 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “BUILDINGS AND CONSTRUCTION”; AMENDING CHAPTER 15.05 ENTITLED “ADOPTION OF INTERNATIONAL ENERGY CONSERVATION CODE” AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. RESOLUTION NO. 2021-12
A RESOLUTION ACCEPTING THE TRANSFER OF A CERTAIN PARCEL OF REAL PROPERTY FOR THE BENEFIT OF THE PUBLIC BY CONTRIBUTING TO THE DEVELOPMENT OF THE SILVER BOW CREEK GREENWAY TO ALLOW ACCESS FEATURES FOR PASSIVE RECREATION ACTIVITIES AND PRESERVING AND PROTECTING THE REMEDIAL AND RESTORATION INVESTMENTS WITHIN THE GREENWAY CORRIDOR AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. RESOLUTION NO. 2021-13
A RESOLUTION DECLARING THE INTENTION OF THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA TO EXTEND SPECIAL TOURISM BUSINESS IMPROVEMENT DISTRICT NO. 1, FOR THE PURPOSE OF PROMOTING TOURISM, CONVENTIONS, TRADE SHOWS AND TRAVEL TO THE CITY-COUNTY OF BUTTE-SILVER BOW; DESIGNATING AND DESCRIBING THE BOUNDARIES OF SAID PROPOSED SPECIAL TOURISM BUSINESS IMPROVEMENT DISTRICT; PROVIDING FOR THE PUBLICATION AND GIVING OF NOTICE OF THE PASSAGE AND ADOPTION OF THIS RESOLUTION AND PROVIDING FOR THE EFFECTIVE DATE HEREIN.

SECTION 4: ORDINANCES AND RESOLUTIONS FOR SECOND READING

1. COUNCIL BILL NO. 2021-02
ORDINANCE NO. 2021-02
AN ORDINANCE AMENDING CHAPTER 2.16 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED “FIRE DEPARTMENT”, SPECIFICALLY AMENDING SECTIONS 2.16.030, 2.16.060, 2.16.320, 2.16.321, 2.16.327, 2.16.360, 2.16.380, 2.16.390, 2.16.391, 2.16.420 AND DELETING SECTION 2.16.395 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.
ORDINANCE NO. 2021-02 REDLINE
Cindi Shaw makes a motion to place the ordinance on second reading and passed having been fully read at length. Shawn Fredrickson seconds the motion. 11 yea 0 nay

City and County of Butte-Silver Bow
2. COUNCIL BILL NO. 2021-03
ORDINANCE NO. 2021-03
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 18.5 ACRES FROM R1-S ONE-FAMILY SUBURBAN RESIDENCE TO C-2 (COMMUNITY COMMERCIAL), COMMONLY LOCATED EAST OF HARRISON AVENUE AND NORTH OF FIVE MILE ROAD; LOCATED IN THE MCQUEENEY SUBDIVISION, SECTION 5, TOWNSHIP 2 NORTH, RANGE 7 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 HEREWITHE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.
Cindi Shaw makes a motion to place the ordinance on second reading and passed having been fully read at length. Shawn Fredrickson seconds the motion. 11 yea 0 nay

SECTION 5: ORDINANCES AND RESOLUTIONS SUSPENSION OF THE RULES FINAL PASSAGE

1. RESOLUTION NO. 2021-14
A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE MONTANA CONNECTIONS SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITHE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.
Cindi Shaw makes a motion to place on final reading and passed having been fully read at length. Shawn Fredrickson seconds the motion. 11 yea 0 nay

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA
PLEASE CALL IN AT 497-5009
See attached letters from Dr. Ray.

CALENDAR OF OTHER MEETINGS AND EVENTS

April 7, 2021, Airport Authority, 12:00 pm, Bert Mooney Airport Authority Admin. Office
April 8, 2021, Greenway Service District Board, 4:30 pm, Anaconda Comm. Service Bldg.
April 8, 2021, Law Enforcement Commission, 4:00 pm, Chief Executive Conference Room
April 9, 2021, TIFID, 12:00 pm, Business Development Center
April 12, 2021, Archives, 12:00 pm, Archives Center
April 12, 2021, Fair Board, 6:00 pm, Perkins or HOPS Meeting Room
April 13, 2021, Superfund Advisory (SARTA), 6:00 pm, Butte Justice Center
April 14, 2021, Board of Health, 7:00 am, Health Dept. Conference Room
April 14, 2021, Land Sales Committee, 1:30 pm, First Floor Conference Room
April 14, 2021, Public Library Board, 5:00 pm, 3rd Floor, Library Bldg.
April 15, 2021, Zoning Board, 5:30 pm, Council Chambers
April 19, 2021, Parks & Recreation, 11:30 am, Highland View Clubhouse
April 20, 2021, Technical Review Committee, 1:30 pm, 3rd Floor, Water Building
April 20, 2021, Urban Forestry Board, 1:00 pm, Business Development Center
April 20, 2021, Public Housing Authority, 5:00 pm, New Deal Community Center

ADJOURN

MEETINGS

ECONOMIC DEVELOPMENT COMMITTEE MEETING
APRIL 7, 2021
6:00 PM BUTTE SILVER-BOW COURTHOUSE CHAMBERS

1. Butte Local Development Report - Joe Willauer

FINANCE & BUDGET COMMITTEE MEETING
APRIL 7, 2021
7:00 PM BUTTE SILVER-BOW COURTHOUSE CHAMBERS

Expenditure report for the week of April 7, 2021 was reviewed and approved in the amount of

REPORTS

COMMITTEE OF THE WHOLE REPORT
MARCH 24, 2021
TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

Ladies and Gentlemen,

We, your Committee of the Whole Committee, respectfully recommend as follows:

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

BID OPENINGS

1. COMMUNICATION NO. 2021-107

Mark Neary, Public Works Director requesting Council of Commissioners authorization to schedule a bid opening for March 24, 2021 for the 2021 Roads Mill/Fill Project. This project will Mill/Fill streets in Uptown Butte including West Platinum, Colorado, and Dakota Streets.

PUBLIC HEARING

1. COMMUNICATION NO. 2021-114

Eric Hassler, Reclamation & Environmental Services Director requesting Council of Commissioners authorization to schedule a Public Hearing on March 24, 2021 to take public
comment on amending the Fiscal Year 2021 ARCO Source Area and Stormwater budget (2278.200.4306.35). The source of revenue is from the Allocation Agreement Source Area Programs Trust between BSB and Atlantic Richfield.

Concur and Place on File

SECTION 2. COMMUNICATIONS

1.COMMUNICATION NO. 2021-107
Mark Neary, Public Works Director requesting Council of Commissioners authorization to schedule a bid opening for March 24, 2021 for the 2021 Roads Mill/Fill Project. This project will Mill/Fill street in Uptown Butte including West Platinum, Colorado, and Dakota Streets.

Concur and Place on File.

2.COMMUNICATION NO. 2021-112
Mark Neary, Public Works Director requesting Council of Commissioners authorization to schedule a bid opening for March 16, 2021 for a Backhoe for the Water Utility Division.

Concur and Place on File.

3.COMMUNICATION NO. 2021-114
Eric Hassler, Reclamation & Environmental Services Director requesting Council of Commissioners authorization to schedule a Public Hearing on March 24, 2021 to take public comment on amending the Fiscal Year 2021 ARCO Source Area and Stormwater budget (2278.200.4306.35). The source of revenue is from the Allocation Agreement Source Area Programs Trust between BSB and Atlantic Richfield.

Concur and Place on File.

4.COMMUNICATION NO. 2021-125
Michael and Kelly Anne Hovan, 241 Williams Street, Walkerville MT requesting Council of Commissioners concurrence to purchase a 10-acre parcel of vacant land owned by Butte-Silver Bow. We would like to survey and purchase the portion that includes our driveway and the adjacent property formerly owned by the Wyatts.

2021-125 Maps and Legal Description

Hold in Abeyance

5.COMMUNICATION NO. 2021-126
Kristen Rosa, TIFID Administrator requesting Council of Commissioners authorization to schedule a bid opening for on April 7, 2021 for the Port of Montana/Montana Connections Rail Expansion project.

Hold in Abeyance.

6.COMMUNICATION NO. 2021-127
Kristen Rosa, TIFID Administrator requesting Council of Commissioners authorization to schedule a bid opening for on April 7, 2021 for the Sugarloaf Loop construction project in Montana Connections.

Hold in Abeyance.

7.COMMUNICATION NO. 2021-131
Ed Lester, Butte-Silver Bow Sheriff requesting Council of Commissioners concurrence and

City and County of Butte-Silver Bow
authorization for the Chief Executive to sign the Memorandum of Understanding (MOU) between Butte-Silver Bow and the Southwest Montana Drug Task Force.

8.COMMUNICATION NO. 2021-132
James M. Manning, Greenway Management Chairperson requesting Council of Commissioners concurrence and authorization for the Butte-Silver Bow Local Government to accept the transfer of real property, Tract A of Certificate of Survey 1079A-RB for the Silver Bow Creek Greenway project and preparation of a Resolution of Transfer Acceptance.

FINANCE & BUDGET COMMITTEE MEETING REPORT
MARCH 24, 2021
TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE- SILVER BOW COMMISSIONERS

8.COMMUNICATION NO. 2021-133
Gary Shea, Broker/Owner Shea Realty requesting Council of Commissioners concurrence and authorization for a 1-year extension of the Conditional Approval of the Amended Plat - Buffalo Estates Temporary Open Space Phase I.

FINANCE AND BUDGET COMMITTEE MEMBERS PRESENT/ ABSENT
John Sorich, Chair P
Josh O’Neill, Vice Chair P
Hattie Thatcher P
Jim Fisher A
John Riordan P
Justin Fortune P

PUBLIC WORKS COMMITTEE MEETING REPORT
MARCH 24, 2021
6:30 PM
TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE- SILVER BOW
COMMISSIONERS
This meeting was not held this week.

JUDICIARY COMMITTEE MEETING REPORT

MARCH 24, 2021
7:00 PM
TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE- SILVER BOW COMMISSIONERS

1. COUNCIL BILL NO. 2021-02
ORDINANCE NO. 2021-02
AN ORDINANCE AMENDING CHAPTER 2.16 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED “FIRE DEPARTMENT”, SPECIFICALLY AMENDING SECTIONS 2.16.030, 2.16.060, 2.16.320, 2.16.321, 2.16.327, 2.16.360, 2.16.380, 2.16.390, 2.16.391, 2.16.420 AND DELETING SECTION 2.16.395 AND PROVIDING FOR AN EFFECTIVE DATE HEREBIN.
ORDINANCE NO. 2021-02 REDLINE
Moved to Second Reading

2. COUNCIL BILL NO. 2021-03
ORDINANCE NO. 2021-03
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 18.5 ACRES FROM R1-S ONE-FAMILY SUBURBAN RESIDENCE) TO C-2 (COMMUNITY COMMERCIAL), COMMONLY LOCATED EAST OF HARRISON AVENUE AND NORTH OF FIVE MILE ROAD; LOCATED IN THE MCQUEENNEY SUBDIVISION, SECTION 5, TOWNSHIP 2 NORTH, RANGE 7 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 HEREBIN.
Moved to Second Reading

JUDICIARY COMMITTEE MEMBERS PRESENT/ABSENT

Bill Andersen, Chairman P
Michele Shea, Vice Chairman A
Dan Callahan P
Hattie Thatcher P
Eric Mankins P
John Sorich P
Thank you for your prompt response. As I have said repeatedly, Butte can be proud of the Health Department and Board of Health, who in the face of unbelievable pressure, have performed in an exemplary fashion.

Notwithstanding the above, my question still stands.

When there is a precipitously called news conference to suddenly announce a major shift of public policy, with it seems little public notice or affording the public little opportunity to weigh in on this specific policy change, to me, alarm bells go off. When there is an abrupt change usually an abrupt event happened. A lot of people were surprised by the rapidity of the change. We knew and hoped it was coming but in the future when we were more along with vaccinations, etc. The lifting of restrictions was not an automatic event but, as I recall reading, was occasioned by a polling of the Board of Health. I am simply asking for full disclosure of what participated the event, what opportunities for public notification and comment were provided, and the full justification for it.

I have already been told of conflict in local businesses either because they continue to require masks or they no longer continue to require masks. My recollection was that the Board of Health had stated that changes would come more gradually. (I intend to check the record to see if my recollection was correct.) It seems that wearing masks, which is so non-intrusive and easy, particularly compared to getting the disease, is an acceptable inconvenience in order to protect public health. We still have a lot of people to vaccinate; we don't know how long protections lasts beyond three months, we don't know the effect of all the variants that are emerging on vaccination protection, we don't know if a variant will develop that is impervious to the vaccine, we don't know whether the vaccines prevent transmission to others not vaccinated. There are many unknowns; in such a situation prudence is warranted, caution is warranted, moving conservatively and slowly in relaxing restrictions is warranted. What was the old adage: "An ounce of prevention is worth a pound of cure." Wearing masks is less than an ounce of protection, i.e. it is easy, but it is the most effective measure individuals can take to combat Covid-19.

So again, I ask, what happened? What sped up the timetable?
I also want to ask: If the metrics that you cite change and become worse, will restrictions be AUTOMATICALLY be re-imposed?

As I have mentioned, every reputable public health authority says keep restrictions, particularly mask wearing, in place. It is too soon to change. I think we should heed them.

So again, my interrogative still stands with, I believe, good justification.

Finally, I want to reiterate my respect for you, the Health Department and the Board of Health. Please take my comments in the proper spirit—a citizen’s request for information.

Dr. John W. Ray.

On Tuesday, March 30, 2021, 08:11:25 AM MDT, Sullivan, Karen <ksullivan@bsb.mt.gov> wrote:

Dr. Ray: I’m sending a link to the Board of Health rule that details what would happen (restrictions rescinded) if our primary metrics (below) were met –

- Cases per 100,000 population
- Positivity rate

Those two metrics were met for the required sustained amount of time, effective March 23.


The Board of Health and county officials are very well aware of HB632 and its proposed recommendations via amendment. We believe that amendment and those recommendations will be found to be unconstitutional and illegal.

Thank you – Karen Sullivan

---

From: John Ray <bodinman2003@yahoo.com>
Sent: Tuesday, March 30, 2021 7:58 AM
To: Sullivan, Karen <ksullivan@bsb.mt.gov>; Ivy Fredrickson <ivy.fredrickson@gmail.com>; Cindi Shaw <wrcoshaw@hotmail.com>; Commissioners <Commissioners@bsb.mt.gov>; Seth Cornell <sethcornell1980@gmail.com>; Seth Cornell <sethcornell80@hotmail.com>; Gallagher, John <jgallagher@bsb.mt.gov>; Michelle Shea <michelemshea@gmail.com>; Donavon Hawk <ddhawk81@gmail.com>; Edie McClafferty <edie.mclafferty@gmail.com>; Edie McClafferty <edie.mclafferty@gmail.com>; BSB Public Input <public-input@bsb.mt.gov>; Jim Keane <d.keane@bresnan.net>; O'Neill, Josh <joneill@bsb.mt.gov>; Bill Andersen District Ten <woandersen@gmail.com>; Sorich, John <jsorich@bsb.mt.gov>; Ryan Lynch <lynchryan@gmail.com>; Callahan, Dan <dcallahan@bsb.mt.gov>; Michael Cast <michael.cast@mtstandard.com>; Mike Smith <Mike.Smith@mtstandard.com>; Derek Harvey <dharvey@mscpff.org>; Julie Hart <jhart@mttech.edu>; Mike Welker <bearwelker@gmail.com>; David
Submitted by: Dr. John W. Ray, 915 West Galena St., Butte

“The good and safety of the people must be the supreme and highest law.” Cicero

What happened?

If a child, who one day was enthusiastic about going to school, suddenly does not want to go to school, a discerning parent would ask why? What happened that makes the child want to stay home. If upon retiring at night a person feels well and wakes up with acute pain, that person would ask why? What happened? Usually, the situation isn’t good. In the case of the child, was there bullying? Was there abuse? If you are suddenly sick, did I have a stroke? Acute attack?

We have a similar public health situation in Butte. One day we are on a measured, planned, steady pace to fully reopen. We are staying the course to defeat Covid-19 until victory is permanently won. Suddenly, almost overnight, poof, all the public health restrictions pertaining to Covid-19, are gone and we suddenly fully reopen.

What happened? What caused this almost overnight change? Why did we abandon all these protective measures when every reputable public health authority in the country says stay the course? Every reputable authority says: Don’t fully reopen too soon. Keep mask mandates. What overnight “scientific” development changed our planned and deliberate path to reopening? What crisis caused this change in public health policy? Why? Why? Why?

Or did it have nothing to do with science? Was it political? Was pressure applied? I don’t know; citizens don’t know but I have a right to know; citizens have a right to know. This affects our health; this affects the economic well being of our community. This is a government transparency issue. This is a public issue. We need to know what our government is doing and most importantly why?

We were doing so well? What was the catalyst of this sudden change?
What I am asking for is full disclosure. If as Jefferson said information is the currency of democracy, I am asking for information. What lead to the decision to abandon the steady course to reopening and the precipitate decision to fully reopen now?

This is a public issue. The public has a right to know. I am particularly perplexed in that the Health Department and the Board of Health have been exemplary in dealing with this crisis. What changed?

“Sunshine is the greatest disinfectant.”

Louis Brandeis

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Submitted by Dr. John W. Ray

Recently all restrictions such as mandatory mask wearing were removed in Butte. After a long and steady fight against Covid-19, which was showing success, I fear we were precipitous in our actions. The disease is not defeated. The disease shows are great propensity to remain infecting and ruining the lives of fellow citizens. We have seen in many parts of the country as well as in foreign countries how this disease is resilient. I have urged us to stay the course until the disease is defeated. I fear we have quit before victory. Why was this done? What was the science behind it? Was it purely a political decision? We have had too many public health decisions made in the last year that eschewed science in favor of politics, in the bad meaning of the term political. Did political pressure outside of Butte occasion this decision? All sorts of rumors are circulating. I would, as a citizen, like to know. This message is in large part simply a request for information as to what happened. Can the public feel that this decision makes us safer? After all the public's safety and health is the highest law as Cicero said.

Axioms

1. We have an ethical duty to be concerned about our fellow citizens and the public good.

2. This concern must be expressed not only in word but most importantly in deed—it is not sufficient to simply say I am concerned about my fellow citizens

3. A major manifestation of this concern for the public good would be to act so as to protect the health and welfare of the community.
4. We have government to promote the general welfare and the common good.

My concern is that in light of the above Butte may well have been premature in removing the public health restrictions that we’re in place and removing virtually all restrictions. (I will repeat that I have a tremendous amount of appreciation for all of the good work that the Health Department, Board of Health and Local Government has done to keep us safe.)

General Argument

In so far as one is able, one should act personally to protect and promote the health of fellow citizens.

Because during a pandemic individual action is necessary but insufficient to protect the public one should support and practice public measures to promote and protect fellow citizens. One should oppose public measures that endanger the life and health of one’s neighbor and pose a significant risk to that health and to the public health.

The lack of mandatory health protection requirements such as mask wearing is a threat to public health. The lack of these protections is a threat to the health of others.

We cannot rely on personal responsibility alone. Certainly, personal responsibility is needed but that is insufficient. Some people are personally irresponsible. Their irresponsibility should not harm innocent people. Citizens must have some expectation that government will protect them from the anti-social actions of others. That is a major reason we have government. If we could rely entirely on personal responsibility, we wouldn’t need law or government; the anarchist argument would prevail.

Saying that this is a personal choice does not meet the requirements of a just action in this case nor does it make an action that harms others just. Simply because an act was chosen does not make it right. I may choose to do evil out of ignorance or a perverse will. The fact that I chose to do it does not make it right. A thief may choose to steal money from me but that fact that he/she chose it does not make it right. My neighbor can be harmed by my choice and when my choice and resultant action can endanger my neighbor, i.e., when my private action injures another, government should step in to regulate this behavior. This is not the function of non-government entities such as business because only government can make and enforce laws and rules binding upon all. The market is inefficient in promoting public health.

Specific Argument

Let us say that someone has had the second vaccine three weeks ago, therefore they should accrue the full protective benefit to themselves.

Even so there are three disturbing possibilities that are realistic:
1. The person could be asymptptomatically infected or pre-symptacically infected and not know it, and, consequently infect others who are not protected.

2. A non-vaccinated person can still get infected by another person, not showing symptoms or being pre-symptomatic and infect others who are not protected. Given the fact that a large number of individuals are not fully vaccinated makes this likely.

3. Also, variants occur frequently which can accelerate spread and compromise vaccine effectiveness and we do not know how long protection lasts from the vaccine.

When mask wearing ceases to be compulsory, compliance drops about 20-30% according to peer reviewed studies. (Betsche, et. Al., Social and Behavioral Consequences of Mask Policies during Covid-19 Pandemic, Proceedings of the National Academy of Sciences, August 20, 2020. I strongly recommend this peer reviewed article.

Also, the states and local government can compel compliance to promote the general welfare; businesses can’t. Ordinances of state and local and federal government can create a feeling of reciprocity of compliance. Government can ensure that all are responsible for promoting the general welfare. The private sector cannot do that. That is why we have the promotion and protection of public health as a major government function.

Therefore, I argue that masks and other safety precautions should be mandatory. We should return to the status quo before all restrictions were removed.

Also, the public has a right to know what preceded this decision to remove restrictions. All sorts of rumors are circulating. Secrecy breeds suspicion. I have been asked by numerous individuals: “Do you think this was just politics?” “Was there any science to back it up?”

The following are references to peer reviewed journal articles that support the arguments that I have made in this paper.

References


12. N. Daniels, Justice, health, and healthcare. Am. J. Bioeth. 1, 2–16 (200)


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Butte’s response to the threat of the COVID-19 pandemic has been remarkable. Just look at the effort to get local citizens vaccinated. It has been a true partnership between government, health care professions and volunteers. Citizens can also take particular pride in our local government—Council of Commissioners, Health Department and Board of Health—all of whom have for so long stayed the course to defeating this dread disease. I also know of the vituperation, insults, and personal attacks you have had to endure. I know you take seriously your public duties.

But these efforts have produced success. We are close to turning the corner on this disease. A year of deprivation, sacrifice and action has born fruit.

People are asking though: Have we relaxed our public health protection activities too soon? Have we quit in the third quarter? Have we stopped before the final victory?

I have no hidden critical agenda for the following. It is sent in a sincere desire to understand the reasoning and information upon with the decision to remove the safety mandates in Butte was made.

Please consider the following public input.
Dr. John W. Ray
915 West Galena St.
Butte, Montana 59701

Rarely do public policy questions, even those involving public health policy, admit of a universally accepted solution devoid of controversy. Public policy decisions are controversial because they lack certainty. In a democracy, decision makers must balance and aggregate competing interests into public policy. Although scientifically based, public health decisions nevertheless still must garner public understanding and support. The democratic belief is that the best public policy, including public health
policy, is created through public debate and discourse, which means the public must have full information about the issues.

This brings us to Butte local government’s recent decision to remove restrictions such as mandatory mask wearing. What are some of the issues that the public should consider in debating this course of action’s wisdom? What was the data and rationale behind the decision?

Arguments for Removing Restrictions

1. COVID-19 infection statistics are moving in the right direction.

2. A significant number of Butte residents have been vaccinated.

3. Butte’s economy is in critical condition.

4. Reliance should be placed on personal responsibility.

5. Restrictions can be reimposed if the COVID-19 statistics start going up.

6. People are bone weary living such restricted lives.

7. Restrictions impinge upon our freedoms.

While I have the highest respect for the Butte Board of Health and the Health Department, who have done outstanding work on behalf of protecting the public, in the interest of robust public discussion, I ask that we consider the counterarguments.

1. Improving statistics are not causal but simply reflect reality; if the reality changes so do the statistics. If we fail to stay the course, infection rates could increase quickly.

2. While a significant number have been vaccinated, a large number have not been. We do not know how long protection lasts. New variants emerge almost daily. Every public health source such as the CDC, World Health Organization, NIH warn that even with the vaccine the public still needs to wear masks, socially distance and restrict interaction.

3. Economic recovery demands defeating this pandemic. We do not want to be in a situation of being forced to reimpose draconian restrictions because the disease spikes.

4. Public policy that relies on what people ought to do instead of what people actually do is doomed to fail. With this disease it only takes a few to infect the many
5. Will we have the political will to reimpose mandates if rates and numbers of those infected increase? Given the fatigue locally, probably not. If not, we could be back where we were months ago.

6. While all of us are weary and want to return to some semblance of the normal, we will be more weary if the disease roars back.

7. While people have freedom, all freedoms are limited for the public good. When the private actions of some can harm the many, government has an obligation to step in and regulate this anti-social behavior.

8. While done in part to ease the burden on business, the relaxing of the mask mandate will place a greater burden on business. What is a business to do: have their own mask mandate and risk alienating the people who don’t want to wear masks; do not have a mask requirement and risk alienating those who support mandatory mask wearing. There will be no uniformity; no predictability. Will heated arguments break out between mask wearers and the maskless? Will workers who have a preexisting condition and work for a business that abandons mask wearing be compelled to jeopardize their health or lose their job?

9. Mask wearing is the least onerous public safety measure but one of the most effective—why drop it?

10. Was science the decision driver or politics?

While I have the highest regard for the Health Department, I would hope these questions are addressed. The more decisional transparency the better. Given the apparent haste with which all health restrictions were suddenly removed in Butte, it would be good to know the reasoning and information behind the decision. The public must have confidence in the decisions that are made.

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[Link to Board of Health rule](https://www.co.silverbow.mt.us/DocumentCenter/View/20272/COVID-19-Board-of-Health-Rule-February-4-2021)

The Board of Health and county officials are very well aware of HB632 and its proposed recommendations via amendment. We believe that amendment and those recommendations will be found to be unconstitutional and illegal.

Thank you – Karen Sullivan
Submitted by: Dr. John W. Ray, 915 West Galena St., Butte

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**Topics**

1) ROLL CALL  
2) APPROVAL OF THE MINUTES  
3) COMMUNICATION NO. 2021-126 refer to TIFID  
4) COMMUNICATION NO. 2021-127 refer to TIFID  
5) NON-SEGREGATED COMMUNICATIONS  
6) COMMUNICATION NO. 2021-166 Concur and Place on File  
7) COUNCIL BILL NO. 2021-02, ORDINANCE NO. 2021-02  
8) COUNCIL BILL NO. 2021-03, ORDINANCE NO. 2021-03  
9) SECTION 5 - SUSPENSION OF THE RULES FOR RES. 2021-14  
10) RESOLUTION NO. 2021-14

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1) ROLL CALL  2) APPROVAL OF THE MINUTES  3) COMMUNICATION NO. 2021-126 refer to TIFID
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10) RESOLUTION NO. 2021-14
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CITY-COUNTY

J.P. GALLAGHER
CHIEF EXECUTIVE

ATTEST: