

**MINUTES OF THE REGULAR MEETING OF  
THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS  
FOR May 1, 2019**

**ROLL CALL**

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

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

**PRAYER AND PLEDGE**

Led by Commissioner McDonough

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

R Edward Banderob, GNCDC Inc., HMITF  
Communication 19-189

- As noted in the heading on the letterhead, one of our main goals is to seek common solutions to common concerns.
- Our first priority objective is to have an effective PM10 dust monitoring program.
- Continually monitor the metal laden airborne dust
- Our Communication 18-550 requested that the appropriate staff members report back to this Council and community their proposed plan and recommendation.
- We believe the Environmental BSB technical review committee and the BSB Health Department Technical Division have mad major decisions relating to the dust monitoring that should be made by the BSB Council to fulfill their duties
- Serious concerns about the lack of detail and a proposed procedure outlined in the communications sent from the government to us.
- Request this communication is held in the COW until such time has been made and discussed regarding this communication.

Derek Harvey, President of the Butte Firefighters Union IAFF Local #96



- Members have always put safety first in this community.
- Training is a daily ritual.
- Advancements do not come easy.
- Normally the Assistant Chief of Administration do the training, we have tried to bring this position back to Butte for years.
- BSB does not have a training facility.
- Butte Firefighters have adapted and put into place a six-member committee to screen candidates based solely based on their skills in firefighting and experience in firefighting.
- The overall hiring process has worked well.
- As a result of deviation from the hiring process, we find ourselves in our situation we are in today.
- Question the value of our out of town members.
- They chose to live and contribute to our community.
- New candidates to be appointed tonight need to know that this was beyond their control and they will be welcomed, and future hurdles will be addressed together should they be confirmed.

Mandy Kambic on behalf of her brother Ross Boggs

- Letter from Ross was read.
- One of the firefighters skipped over in appointment process.
- Firefighter in Anaconda also contributes to Butte Community.
- Negligence in following the hiring process.
- Why does my current job have any effect on the current job offering?
- Process was not followed, most recent appointments has discredited the

### **CHIEF EXECUTIVES REPORT**

- Next week is the Economic Development week, on Weds. May 8, from 4-5:30 at NW Energy Building will be holding a panel meeting for questions and answers regarding the Economic Development in Butte.
- May 13 there will be an Uptown meeting, as a follow-up meeting to last year's meeting at the Thornton Building from 6-8:30 as a follow-up meeting to last years meeting.
- Rumors that the County shops are not being moved are untrue. Have submitted the 90% design to the State of MT, they have reviewed it and have some questions, we are continuing to work on it with them.

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



**Commissioner Olsen:**

- Are we supposed to have minutes?

**Chief Executive Palmer:**

- Council Secretary was on vacation, we will approve both next Regular Meeting.

**Commissioner Shaw:**

- Thanked Julia Crain and Mollie Maffei for answering questions this week
- Wanted a couple things addressed on the record

**Julia Crain- Superfund Data Administrator**

- A constituent of the Public suggested the BPSOU map used at a meeting at MT Tech on April 23<sup>rd</sup> was inaccurate
- He was using a reference to a map that is on 2-page fact sheet that was provided by EPA.
- The BPSOU map is the same, the one amendment that is being made is an inclusion of the Growth Gulch catch basin which is North of the Lexington waterline.
- That portion is not included at this time but will be included in the amended Record of Decision (ROD).

**Shaw:**

I know we have used the word, “perpetuity”. Sounds like its forever.  
Could you explain what that means in reference to the Superfund dealings?

**Crain:**

- Perpetuity does mean forever
- One of the reasons we talk about perpetuity in Superfund is that we have the potential delisting of BPSOU.
- Although delisted we will be required to monitor and maintain the land within the BPSOU for the foreseeable future or in perpetuity.
- The remedy that is put in place in BPSOU is protective of environment and human health forever.
- Once Superfund leaves we still have responsibilities to our land and to protect our community from any threat that may be posed by a failure.

**Mollie Maffei- Deputy County Attorney**

- The BPSOU boundary has been amended before.
- Address some questions that have come up regarding the Allocation Agreement with Atlantic Richfield.
- Dec 2006 was confirmed by BSB Council
- Addresses the work that BSB is doing now within our own program
- That allocation agreement has several different trust funds that allocate money to BSB crews
- That budget gets interest, we draw from that budget



- If Consent Decree is approved, we will then get another agreement that increases the money to take care of O & M that BSB will have under
- That agreement.
- The existing agreement does not pay for things in the future.
- Budgets will be set aside as they are now for BSB to perform their duties
- Our goals are to protect the creek from containment., protect the tax payer from liability and have land use
- Taxpayers have not paid for any work done under Superfund
- If there is no money, BSB does not have an obligation because that is what is in the Allocation Agreement.

**Crain:**

- Amend previous statement, Map is on page 17 of the Purposed Plan, illustrates the change made to the BPSOU boundary regarding Growth Gulch area.

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

SECTION 1 BID OPENING

COMMUNICATION NO. 19-162

Mark Neary, Public Works Director requesting Council of Commissioners allow time on the May1, 2019 Regular Meeting Agenda for a Bid Opening for materials for the 2019 Dewey Boulevard Water Main Replacement.

Proof of Publication verified by County Attorney Joyce.  
 Engineer's Estimate is: \$109,867.73

Bid #1-Cashier's check for 10% surety  
 Montana Waterworks and Irrigation-Billings, MT  
 \$103,995.30

Bid #2-Bond in amount of 10%  
 Core and Main-Missoula, MT  
 \$104,687.10

Bid #3-Bond in amount of 10%  
 Northwest Pipe and Fittings- Butte MT  
 \$103.399.99

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



SECTION 2. PRESENTATION  
COMMUNICATION NO. 19-152

Ed Randall, Community Enrichment Director requesting Council of Commissioners allow time on the May 1, 2019 Regular Meeting Agenda for a presentation to provide an update on the Butte Silver Bow Community Enrichment Department.

**Ed Randall- Director Community Enrichment**

Important things that have been completed this year.

- New Community Enrichment Ordinance that works well
- Long range plan, working on a succession plan with HR and the Chief Executive.
- Rewritten job descriptions/ added some things to cross training all staff
- Transparency
- Last year we have started team meetings
- Working on an Animal Policy and Procedures manual
- The arborist position has been great.
- Some things we have taken on this year:
  - We now have snow removal works
  - Vacant Building Ordinance
  - Community Service Program- Work with Judge McCarthy
  - Summer water program
  - Planning and zoning enforcement
  - Parking lot and trail maintenance (during summers)
  - Dangerous building Ordinance
  - Harrison Avenue vegetation
- Plans for next year:
  - New “Moth Ball” Ordinance
  - Community Project on Montana Street
  - Working with Town Pump on the new building
  - New arborist Ordinance
  - Grant for complete tree inventory
  - Working on water system
  - Replanting Elizabeth Warren
  - Continue with contract negotiations with Teamsters.
  - Asking employees to take bigger leadership roles.
- Animal Control wear bulletproof vests and would like to get all staff wearing them.

**Commissioner Shaw:**

- Worth mentioning the interface with Parking
- Thank you for the snow removal this winter, they did a great job.

**Randall:**

- We have great staff



- Really need your support

**Commissioner Shea:**

- Thanked Animal Control for work with problem in Community.
- Also wanted to ask, “Where do the snow removal” complaints go to?

**Randall:**

- They go to Community Enrichment

Chief Executive called for any segregations or friendly amendments to the agenda.

Commissioner Morgan made a friendly amendment to #19, Communication 19-198, the caption should say, “on behalf of 5M, LLC not 5S LLC”. Would like to segregate # 20. Communication 19-199.

Commissioner Fisher segregated #6. Communication 19-184.

*It was then moved by Commissioner Morgan, seconded by Commissioner Shaw and passed with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 3, and Section B, Items 1 through 24, exclusion of number 6 and number 20.*

6. COMMUNICATION NO. 19-184

Jim Fisher, Commissioner District # 6, requesting Council of Commissioners and the Chief Executive address the concern noted in the letter given to Council Secretary by Mr., Kennedy (Butte Silver Bow Fire Commission) and signed by all Members regarding the process and procedure regarding recent appointments to the Butte-Silver Bow Fire Department.

Commissioner Fisher:

- I have some qualms with the process that was used.
- When letters came to the Council Secretary, I felt we should have responded.
- Questions the fire commission asked have not been answered.
- We are part of the check and balance system
- Want to see these men confirmed but need to look at the process.
- Requested meeting with Chief Executive and County Attorney and tried to get questions answered.
- I asked that the confirmation will be held off until we could vent this process with hope of a unanimous decision.
- He asked me to withdraw my Communication and saw no reason to hold off.
- Chief understands the work that was put into the selection of the candidates by the Fire Commission.
- He responded with yes and he had his own reasons for his selection.



- Did the number 13 candidate state in public he would get the job due to his connections.
- The county attorney stated it was here-say.
- The county attorney accused me of call KXLF to get this story on t.v.
- That is false, they called me.
- We accepted a grant from the Federal Government
- If we don't confirm these firemen and Chief Executive does not confirm another fireman, we will have to pay grant money back and we are looking at legal issues either way.
- An attorney was contacted by Chief Executive Palmer, I do not agree with their answers.
- I will not be making a motion to vote and place this Communication on file at this time.

Commissioner Andersen:

- couple questions regarding the letter we received from the Attorney,
- I would be prepared to make a motion after a 5-minute recess to have a couple questions answered by Council.

#### **A FIVE-MINUTE RECESS WAS TAKEN**

Chief Executive Palmer called the meeting back to order  
Roll Call: 12 present/0 Absent

Chief Executive Palmer made a statement about the procedure that was put in place. All applicants are gone through the testing and are qualified to apply for a position in Montana. When there is a position opened, the Fire Commission interview them and then a group in the Fire Department goes through the qualifications. The rating giving by the Fire Commission given by the Fire Department do not line up all the time. I am given a list of candidates that are qualified. I take this seriously, I reviewed each candidate and passed some up. What concerns me is that these rating were made public, which should have never happened. Legal advice said that I did everything by the law. I followed the Ordinance. If you do not like the way it is written, you can change it, however I caution you to not take the Chief Executive out of this equation.

Commissioner Andersen:

- I firmly believe that Chief Executive Palmer did everything that was well within his power.
- There questions and concerns about how he did it
- I hope for a better process in the future
- I agree both candidates are qualified for this appointment.

***It was moved by Commissioner Andersen, seconded by Commissioner Sorich to note Communication 19-184 and place on file***



Commissioner Morgan:

- This has been a very trying few months
- I believe all the commissioners took it upon themselves to research and talk to people associated with it.
- The problem is that you get so many opinions and stories.
- Part of it is figuring out what is true and what isn't.
- Reading through the Ordinance, 2.16.327, says all appointments shall be made by the Chief Executive and confirmed by the Council of Commissioners.
- Do we go into the hiring practices or candidates, we should be involved in the hiring interview, that is not the role of a Commissioner?
- Look at 2.16.370, applicants must meet following requirements...
- As a Commissioner, my role is to base my decision on these requirements.

Commissioner Shea:

- Great deal of faith in our Chief Executive and a huge amount of respect for our Fire Department and the processes with the goal of hiring the very high
- Disappointed that Fire Commission and Fire Battalion Chiefs were put in a position that they felt compelled to speak out about the hiring process
- Disappointed that an individual's privacy may have been inadvertently affected
- Reasons our Fire Commissioner and Battalion Chiefs are involved
- Of all entities that has had the least hands in on the hiring of these individuals it is the Council of Commissioners.
- The Fire Commissioner and Battalion Chiefs have made their opposition clear
- Extremely uncomfortable being expected to make a decision on something we had nothing to do with and is still controversial
- In my opinion the analysis by the attorney left a lot of unanswered questions.
- I am not confident that the process was fair or that we could defend it should a law suit be filed.
- This appointment may be approved by this body tonight; however, I will not support it.
- It is nothing personal against any candidate.
- I am just not sure the process was followed properly.

Chief Executive Palmer reminded everyone that the recommendation to the motion to be voted on is to Note and place on file Mr. Fisher's communication, 19-184.

The motion passed with a 11 to 1 vote. With Mr. Fisher being the nay vote.





20. COMMUNICATION NO. 19-199

Leslie Clark, Director, Human Resources, requesting Council of Commissioners authorize the Chief Executive to sign the attached Client Agreement between City-County of Butte-Silver Bow and HealthJoy, a provider of health concierge and Teledoc Services.

Commissioner Morgan:

Ms. Clark has something to add to this agreement before I make a motion.

Leslie Clark- Director Human Resources

Agreement was submitted to County Attorney's office for review

They are asking for more time

I am asking that it be held in abeyance.

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw and passed unanimously to have Communication No. 19-199 held in the Committee of the Whole.*

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

1. COMMUNICATION NO. 19-191

Dave Palmer, Chief Executive, requesting Council of Commissioners concur with the appointments of Probationary Firefighters.

Chief Jeff Miller- Butte Fire Department

- This process has been extremely stressful on all those involved
- Some personal and professional relationships have been damaged and may never be the same.
- Apologize to the families that have been involved.
- When the press got involved, I had no comment. It was not out of indifference or cowardness.
  - Three Reason for this.
    - I have no direct role in hiring or appointment members to the fire department.
    - I work directly for the chief
    - I ask that this body confirm them.
- I appreciate all the Fire Commission does, they take their job seriously. They are not paid for this position and they show up whenever we ask.
- The four Battalion Chiefs they have my back everyday and have our firefighters trained every day.
- Recognize the Chief Executive has the hiring authority.

Introduction of Mr. Levi Davenport and Mr. Thomas T.W. Bolton.



*It was moved by Commissioner Morgan, seconded by Commissioner Shaw to concur with Communication 19-191 and appointment of probationary firefighters, Communication 19-191.*

Commissioner Fisher asked to abstain from voting due to his previous concerns regarding the meeting with Chief Executive Palmer and County Attorney Joyce also because of having relatives on the Butte Silver Bow Fire Department.

Commissioner Andersen congratulated each of the candidates, but stated due to concerns regarding the process, will not vote for either candidate in protest of the process not in the candidates.

*Roll call vote: Motion passed to appoint Mr. Levi Davenport and Mr. Thomas T.W. Bolton as probation firefighter with the Butte-Silver Bow Fire Department with 9 years and 2 nays, (Commissioner Andersen and Commissioner Shea) and Commissioner Fisher abstaining.*

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

##### **SECTION 1. COUNCIL BILL NO. 19-06**

##### **COUNCIL ORDINANCE NO. 19-06**

AN ORDINANCE AMENDING CHAPTER 2.08 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC ENTITLED "LOCAL GOVERNMENT EMPLOYEES" AND SPECIFICALLY AMENDING SECTION 2.08.070 ENTITLED "TRAVEL" AND DELETING SECTIONS 2.08.080, 2.08.090, 2.08.100, 2.08.130, AND 2.08.140 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

##### **SECTION 2 RESOLUTION NO. 19-17**

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE FROM THE MONTANA DEPARTMENT OF NATURAL RESOURCE AND CONSERVATION (DNRC) AND STATE OF CALIFORNIA DEPARTMENT OF FORESTRY (CALFIRE) FOR WILDFIRE DEPLOYMENT CONTRACT FOR THE SUMMER OF 2018 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

##### **SECTION 3 RESOLUTION NO. 19-18**

A RESOLUTION DIRECTING THE BUTTE-SILVER BOW LAND RECORDS DEPARTMENT TO MAIL NOTICE OF PENDING TAX DEED ISSUANCE TO ALL PERSONS CONSIDERED INTERESTED PARTIES FOR EACH PROPERTY FOR WHICH THERE HAS BEEN ISSUED A TAX CERTIFICATE IN ACCORDANCE WITH THE



PROVISIONS OF SECTION 15-18-212, MCA; FURTHER DIRECTING THE TREASURER TO ISSUE A TAX DEED FOR THOSE PARCELS OF PROPERTY WHERE THERE HAS BEEN ISSUED A TAX CERTIFICATE AND THE EXPIRATION DATE OF THE REDEMPTION PERIOD HAS EXPIRED, AND THE REQUIRED PAYMENTS HAVE NOT BEEN MADE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION 4 COUNCIL BILL NO. 19-08  
ORDINANCE NO. 19-08

AN ORDINANCE REPEALING CHAPTER 15.06 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (BSB-MC) AND REPLACING IT BY ESTABLISHING A NEW CHAPTER OF THE BUTTE-SILVER BOW MUNICIPAL CODE (BSB-MC) TO BE NUMBERED 8.14 AND TO BE ENTITLED "DANGEROUS BUILDINGS", ESTABLISHING PROCEDURES AND PROVISIONS FOR ENFORCEMENT AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION 5 ORDINANCES SECOND READING**

SECTION 1. COUNCIL BILL NO. 19-07  
COUNCIL ORDINANCE NO. 19-07

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

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw that Council Bill 19-07, Council Ordinance No. 19-07 be placed on second reading and passed, having been deemed fully read at length. The motion passed with a roll call vote of 12 yea and 0 nay.*

**SECTION 6 ORDINANCES AND RESOLUTIONS FINAL READING**

SECTION 1. COUNCIL RESOLUTION NO. 19-16  
A RESOLUTION REQUESTING APPOINTMENT OF SPECIAL DEPUTY PROSECUTORS FROM THE PROSECUTOR'S SERVICES BUREAU OF THE DEPARTMENT OF JUSTICE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw that Council Resolution be placed on second reading and passed, having been deemed fully read at length.*



County Attorney Joyce:

When this was first introduced this was the title  
This Resolution was amended in Judiciary  
Already passed as amended in Judiciary

Chief Executive Palmer we will refer this back to Judiciary and get it amended properly.

## **SECTION 7 SUSPENSION OF THE RULES FOR FINAL PASSAGE**

*It was moved by Commissioner Morgan and seconded by Commissioner Shaw and passed by a verbal vote of 12 year and 0 nay, to suspend the rules for the purpose of passing Council Resolution 19-15 by waiving Subsection 7 of Rule XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee. Also amended to include Resolution 19-19.*

### **SECTION 1. RESOLUTION NO. 19-15**

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW HEALTH DEPARTMENT FROM THE NATIONAL ASSOCIATION OF CHRONIC DISEASE DIRECTORS TO PROVIDE SERVICES UNDER THE NACDD GRANT AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw and passed unanimously by role vote to have the Resolution 19-15 placed on final reading having been deemed fully read at length.*

### **SECTION 2 RESOLUTION 19-19**

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE FROM THE STATE OF MONTANA DEPARTMENT OF COMMERCE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND AS A PASS-THROUGH AGENCY FOR THE



STATE OF MONTANA DEPARTMENT OF COMMERCE BIG SKY TRUST FUND, JOB CREATION GRANT TO FIRST CALL RESOLUTION, INC AND PROVIDING FOR AND EFFECTIVE DATE HEREIN.

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw and passed unanimously by role vote to have the Resolution 19-19 placed on final reading having been deemed fully read at length.*

**PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

Commissioner Shaw:

- Remind 1<sup>st</sup> Artwalk of 2019 is Friday from 5-9 in uptown Butte.

Commissioner Morgan:

- Please review the agenda to avoid mistakes.
- Let us know prior to the meeting.
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**ADJOURN**

*It was moved by Commissioner Morgan, seconded by Commissioner Shaw and passed unanimously to adjourn the meeting.*

Meeting was adjourned at 9:00 p.m.

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Dave Palmer, Chief Executive

ATTEST:

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Clerk & Recorder

