ROLL CALL  9 Present 3 Absent- Andersen, Sorich, Fortune

PRAYER AND PLEDGE Michele Shea

APPROVAL OF THE MINUTES
May 19, 2021 Regular Meeting Minutes

ITEMS NOT ADDRESSED ON THE AGENDA None

CHIEF EXECUTIVE'S REPORT
Gallagher: In 2013 this commission passed an ordinance with no discrimination in our community. We did a proclamation with the LGBTQ plus on June 1st, 2021. We will have our first meeting next week for the clean-up. And the repository committee of where we will put the tailings. With warm weather we will be imposing water restrictions right away, going odd and even days from 6-10 am and 6-10 pm. Tommy Knockers had a great night except for the fireworks. About 40 in attendance and it was a great time. We have the COVID Signs in and they are available in his office. All can put them up for the vaccination campaign.

PUBLIC COMMENT ON ANY ITEMS ON THE AGENDA None

WRITTEN COMMENTS WELCOME: None
public-input@bsb.mt.gov

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

PRESENTATION

1.COMMUNICATION NO. 2021-252
Ed Randall, Community Enrichment Director requesting Council of Commissioners concurrence for a presentation on the June 2, 2021 agenda to provide an update on the Butte-Silver Bow Community Enrichment Department. Ed Randall: We have the animal services, dangerous buildings, community decay and the weeds division and enforce zoning. The staff worked closely with the health department answering phones and did a great job. A few staff members for their college degrees and are very proud of them. Asked the staff to become eligible for weed tests. Staff see 30 to 40 places a day concerning junk vehicles, yards that are not mowed etc. The alley ralley is open and ready to roll.
Two Council members will organize neighborhood meetings and discuss what issues are important. Andersen and Sorich will be heading these meetings.

Summer kids are back and they are picking up garbage, mowing and staying really busy. Trying to find a spot for a dog park in the uptown area.

Excited about the coming year and appreciate all of you.

Gallagher: The mothball, vacant buildings, we will start a process and how we are going to do this, tell us the process with these issues.

Raandall: We have planning and zoning, community enrichment, historic preservation we meet with weekly. A couple of buildings have come up that are in horrific condition and could not be saved. Excella is a new program that is coming up to help track these buildings and help keep them in better condition.

Dylan Pipinich: Excella will help with the planning and building codes. We are live with planning and building codes since February. We will be looking at the workflow process and track them through the software. This will be rolling out the public soon. The documentation will all be through Excella. This will be more efficient.

Riordan: Thanks Randall for getting back to him in a timely manner with a couple of issues last week. Who do we call for abandoned vehicles and buildings?

Randall: Yes, call Community enrichment, and we will take all those complaints.

Riordan: The city wide clean up, will all the districts be able to participate?

Randall: Yes, your area will be one of them.

Riordan: with the buildings, strong feeling about a performance bond, that they never met requirements to be fixed up. Can we look at this so that we don’t get stung with fees down the road.

Randall: We can discuss more and will talk to the County Attorney.

Shaw: It should be noted that you also do snow removal as well. Tell us how the Parking Control will be a part of your office.

Gallagher: Decided to put enforcement where we do enforcement. Police and Community Enrichment. Makes the most sense. Trailers, Junk vehicles all belong together to better patrol the community.

Randall: This move will better the ordinances and enforcing parking enforcement. We have vehicles so that they are not just working in the uptown area. They will be able to get into the downtown neighborhoods.

Shaw: It will be like a one stop shop to pay parking tickets and abandoned vehicles and we can do it all in one

Randall: Yes, it will be a one stop shop. We will have a lead person on e-mails and phone calls.

O’Neill: Thanks Randall’s staff for their hard work.

Shaw: The Excella program, like a demo situation, would it give me a playbook in telling some of my constituents?

Gallagher: It will give you a flowchart that we will be rolling out, and we will be doing a presentation to the Council in what it will look like.

Pipinich: It will be efficient and will be a good tracking and record keeping device.

Shaw: Will it be available to the Commissioners?

Pipinich: There are two sides to the Excella program. Planning has one and citizens will have another side.

Randall: Thanks everyone for their time.

SECTION 2: CONSENT AGENDA Segregations 2021-255- Riordan

Cindi Shaw makes a motion to approve the CD with the exception of 2021-255. Shawn

City and County of Butte-Silver Bow
Fredrickson seconds the motion. 9 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. 2021-251
   Mike Nasheim, Building Official informing the Council of Commissioners that the Building Codes
   Department has not adopted the NFPA 99c Standard on Gas and Vacuum System (medical gas),
   2018 Edition. The Building Codes Department is not certified to inspect these systems and
   therefore is not adopting this code.
   Concur and Place on File

2. COMMUNICATION NO. 2021-253
   Laci Ridder, Executive Director Big Brothers and Sisters requesting Council of Commissioners
   permission for use of the Original Mine Yard and Stage on September 3rd and 4th, 2021 for our
   Rhythm and Brews Fundraiser.
   Concur and Place on File

3. COMMUNICATION NO. 2021-254
   Ed Banderob, 2601 Grand Avenue requesting Council of Commissioners to request the BSB Chief
   Executive to request the BSB Health Department and BSB Board of Health to have the BSB Health
   Study Advisory Committee act as a Community Advisory Council to review what has been done in
   other countries and communities to mitigate the health and economic impact of this COVID-19
   virus and prepare an action plan should we get another virus that may not be contained by the
   current vaccines.
   Refer to Health Department and hold in the Committee of the Whole

4. COMMUNICATION NO. 2021-255
   Kristen Rosa, TIFID Administrator requesting Council of Commissioners authorization for the
   Chief Executive J.P. Gallagher to sign a Lease with Purchase agreement with Town Pump for 24
   acres in the Montana Connections Business Development Park.
   2021-255 Agreement
   Concur and Place on File
   Riordan: First time he has heard of this, are they building a warehouse?
   Rosa: Town Pump will do liquid fuel transloading fuel type things.
   Riordan: Is this immediately?
   Rosa: They are ahead of us but no paved road to that parcel.
   Riordan makes a motion for 2021-255 to concur and place on file, Cindi Shaw seconds the motion.
   9 yea 0 nay
5. COMMUNICATION NO. 2021-256
Matthew Boyle, Montana Booking Agency CEO requesting Council of Commissioners permission to close one block of Galena Street from Main over to Wyoming Street from 4pm-1am on July 2nd, and August 6th, 2021 to host The Block Party.
Concur and Place on File

6. COMMUNICATION NO. 2021-257
Bill Fisher, Butte Depot requesting Council of Commissioners permission to hold a public concert at Copper Mountain park on August 26, 2021. We have hired the multi-platinum award winning country band Blackhawk.
Concur and Place on File

7. COMMUNICATION NO. 2021-258
Matthew Boyle, Parade and Events Coordinator requesting Council of Commissioners permission host Butte's 4th of July Parade. The parade is scheduled for Sunday July 4th, 2021 at 10:00 am.
Concur and Place on File

8. COMMUNICATION NO. 2021-259
Matthew Boyle, Parade and Events Coordinator requesting Council of Commissioners permission to close Alabama Street below the park from 12 pm to 11 pm to all traffic to accommodate setup, tear down and the presentation for a summer event in Chester Steele Park on July 3rd, fondly referred to as The Big Bang.
Concur and Place on File

9. COMMUNICATION NO. 2021-260
Angie Mullikin, Public Works Budget Analyst requesting Council of Commissioners for time on the June 16, 2021 Council of Commissioners regular meeting to open bid for Dog Kennels for the Animal Shelter.
Hold in Abeyance

10. COMMUNICATION NO. 2021-261
Padraig Cunneen, Public Works Engineer requesting Council of Commissioners to request the BSB Chief Executive J.P. Gallagher to sign Amendment #1 to Contract Agreement # 2020-149 with HDR Engineering for the Update of the Butte Water Master Plan.
2021-261 Amendment
Concur and Place on File

11. COMMUNICATION NO. 2021-262
Mark Neary, Public Works Director requesting Council of Commissioners for time on the June 16, 2021 Council of Commissioners regular meeting for a presentation on County wide Maintenance District Workplan update for FY2021 and Workplan for FY2022.
Hold in Abeyance

12. COMMUNICATION NO. 2021-263
Mark Neary, Public Works Director requesting Council of Commissioners for time on the June 16, 2021 Council of Commissioners regular meeting to open bids for materials for the 2021 water Main Replacement Projects.
Hold in Abeyance

13.COMMUNICATION NO. 2021-264
Jerome McCarthy, Butte-Silver Bow City Court Judge requesting Council of Commissioners to request the BSB Chief Executive J.P. Gallagher to sign the For The Record Master Software Service Agreement to purchase the software and equipment to provide required recording services for the new fourth floor Veterans' Courtroom.
2021-264 Agreement
Concur and Place on File

14.COMMUNICATION NO. 2021-265
Padraig Cunneen, Public Works Engineer requesting Council of Commissioners for time on the June 9, 2021 Committee of the Whole meeting for a presentation with Bob Lazzari Parks and Rec Director concerning the Basin Creek Reservoir.
Hold in Abeyance

15.COMMUNICATION NO. 2021-266
Angie Mullikin, Public Works Budget Analyst requesting Council of Commissioners to request the BSB Chief Executive sign the Generator Service Agreement between Western State CAT and Butte-Silver Bow for the Wastewater Treatment Plant.
2021-266 Agreement
Concur and Place on File

16.COMMUNICATION NO. 2021-267
Karen Byrnes, Community Development Director requesting Council of Commissioners to request the BSB Chief Executive J.P. Gallagher to sign the Software License Agreement and Support Services Addendum Agreement between Cardinal Tracking, Inc., and the City and County of Butte-Silver Bow.
2021-267 Agreement
2021-267 Addendum
Concur and Place on File

17.COMMUNICATION NO. 2021-268
Brian McGregor, Silver Dollar Saloon requesting Council of Commissioners permission for a street closure on June 25, 2021, on Mercury Street, west from Main Street to the Alley from 6:30 pm for the annual "Street Dance" celebration.
Concur and Place on File

18.COMMUNICATION NO. 2021-269
Kristen Rosa, TIFID Administrator requesting Council of Commissioners to request the BSB Chief Executive J.P. Gallagher to sign the Loan Documents related to the TIFID Loan to Seacast of Montana. The loan has been approved by the BLDC Loan Committee and the TIFID Board.
2021-269 Agreement
2021-269 Deed of Trust
Concur and Place on File
19. COMMUNICATION NO. 2021-270
Mike Clague, Deputy County Attorney requesting Council of Commissioners to request the BSB Chief Executive J.P. Gallagher to sign the Butte Veterans Treatment Court Services Contracts for the Butte Silver-Bow Veterans Treatment Court BVTC.
2021-270 Purchase Agreement
2021-270 Agreement
2021-270 Case Management
Concur and Place on File

20. COMMUNICATION NO. 2021-271
Bob Lazzari, Park and Recreation Director requesting Council of Commissioners to request the BSB Chief Executive J.P. Gallagher to sign an agreement between the NRDP and Butte-Silver Bow. The NRDP will provide funding from the Butte Area One Restoration Fund for Butte-Silver Bow to hire a camp host and rent porta-potties which will support public recreational access to the Basin Creek Reservoir.
2021-271 Agreement
Concur and Place on File

SECTION 3: ORDINANCES AND RESOLUTIONS INTRODUCED TO JUDICIARY

1. COUNCIL BILL NO. 2021-05
ORDINANCE NO. 2021-05
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 1.5 ACRES FROM R-2 TWO-FAMILY RESIDENCE) TO C-2 (COMMUNITY COMMERCIAL), COMMONLY LOCATED BETWEEN PARK STREET AND BROADWAY STREET, WEST OF OHIO STREET; LOCATED IN THE BALTIK LODGE, SECTION 13, 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.

1. RESOLUTION NO. 2021-22
A RESOLUTION EXTENDING THE 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 AND PROVIDING FOR THE EFFECTIVE DATE HEREIN.

SECTION 4: ORDINANCES AND RESOLUTIONS SUSPENSION OF THE RULE FOR
FINAL PASSAGE
Cindi Shaw makes a motion to pass 2021-20 and 21 for the suspension of the rules, having moved to advanced passage without reference to the Judiciary committee. Shawn Fredrickson seconds the motion.
9 yea 0 nay

1. RESOLUTION NO. 2021-20
A RESOLUTION REQUESTING DISTRIBUTION OF BRIDGE AND ROAD SAFETY AND ACCOUNTABILITY (BarSAA) PROGRAM FUNDS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.
Cindi Shaw moves to place 2021-20 on final reading and passed having been fully read at length. Shawn Fredrickson seconds the motion.
9 yea 0 nay
Fisher asked how much money?
Neary: Money will be spent on Mercury to Arizona, with curb and gutter and sidewalks.
Fisher: only project with $850,00?
Neary: We will be shy of money and will have to use money from our road fund to finish.
Fisher: did we have agreement with he state for west side of Mercury to Utah street?
Neary: The intersection at Utah is the state, but Mercury street to the east is ours, I believe.

2. RESOLUTION NO. 2021-21
A RESOLUTION REQUESTING DISTRIBUTION OF BRIDGE AND ROAD SAFETY AND ACCOUNTABILITY (BarSAA) PROGRAM FUNDS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.
Cindi Shaw moves to place 2021-21 on final reading and passed having been fully read at length. Shawn Fredrickson seconds the motion.
9 yea 0 nay

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA
None

CALENDAR OF OTHER MEETINGS AND EVENTS
June 2, 2021, Airport Authority, 12:00 pm, Bert Mooney Airport Authority Admin. Office
June 2, 2021, Butte AIDS Support Services, 7:00 pm, Community Center
June 3, 2021 Civic Center, 12:00 pm, Civic Center Hospitality Room
June 3, 2021, East Butte RRA, 9:00 am, 1st Floor Conference Room, ad hoc basis
June 8, 2021, Superfund Advisory (SARTA), 6:00 pm, Butte Justice Center
June 9, 2021, Board of Health, 7:00 am, Health Dept. Conference Room
June 9, 2021, Land Sales Committee, 1:30 pm, First Floor Conference Room
June 9, 2021, Public Library Board, 5:00 pm, 3rd Floor, Library Bldg.
June 10, 2021, Law Enforcement Commission, 4:00 pm, Chief Executive Conference Room
June 10, 2021, Greenway Service District Board, 4:30 pm, Anaconda Comm. Service Bldg.
June 11, 2021, TIFID, 12:00 pm, Business Development Center
June 14, 2021, Archives, 12:00 pm, Archives Center
June 14, 2021, Fair Board, 6:00 pm, Perkins or HOPS Meeting Room
June 15, 2021, Technical Review Committee, 1:30 pm, 3rd Floor, Water Building
June 15, 2021, Urban Forestry Board, 1:00 pm, Business Development Center
June 15, 2021, Public Housing Authority, 5:00 pm, New Deal Community Center
June 16, 2021, Parking Commission, 3:00 pm, Chief Executive Conference Room
June 17, 2021, Zoning Board, 5:30 pm, Council Chambers
June 21, 2021, Parks & Recreation, 11:30 am, Highland View Clubhouse
June 22, 2021, Port of Montana, 12:00 pm, Hub Center, Silver Bow
June 22, 2021, Urban Revitalization, 8:30 am, 1st Floor Conference Room

ADJOURN
Gallagher: Meeting adjourned.

MEETINGS

ECONOMIC DEVELOPMENT COMMITTEE MEETING
JUNE 2, 2021
6:00 PM BUTTE-SILVER BOW COURTHOUSE CHAMBERS

1. Butte Local Development Report- Joe Willauer

FINANCE & BUDGET COMMITTEE MEETING
JUNE 2, 2021
7:00 PM BUTTE-SILVER BOW COURTHOUSE CHAMBERS

Expenditure report for the week of June 2, 2021 was reviewed and approved in the amount of $________________________2021.

REPORTS

COMMITTEE OF THE WHOLE REPORT
MAY 26, 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:

PRESENTATIONS

1. COMMUNICATION NO. 2021-217
Jim Fisher, BSB Commissioner District 6 requesting Council of Commissioners authorization for the Chief Executive J.P. Gallagher to invite someone from the DEQ and EPA to our Council Meeting to update and explain the clean-up and future use of the Montana Pole site.
2.COMMUNICATION NO. 2021-230
Dori Skrukrud, Greenway Project Manager requesting Council of Commissioners authorization to request time on your May 26, 2021 Committee of the Whole meeting to present an update on the Silver Bow Creek Greenway.
*Hold in Abeyance*

3.COMMUNICATION NO. 2021-231
Karen Byrnes, Community Development Director requesting Council of Commissioners authorization to request time on your May 26, 2021 Committee of the Whole meeting to present information on the Uptown Master Plan.
*Held*

**SECTION 2. COMMUNICATIONS**

1.COMMUNICATION NO. 19-582
Ed Banderob, Greeley Neighborhood Community Development Corporation requesting Council of Commissioners to invite a Montana DPHHS' Toxicologist to give a Presentation relative to the Hazards/Risks to human health of heavy metals contaminates present in the Butte-Silver Bow Community.
*Note and Place on File*

2.COMMUNICATION NO. 2020-503
Dan Olsen, Commissioner District 5 requesting Council of Commissioners to address the following problem with Butte-Silver Bow Ordinance Chapter 6.16 - Livestock and Domesticated hoofed Animals as currently written is unenforceable by B-SB and does not interface seamlessly with MCA 81-4-201–81-4-401 to allow the State to provide enforcement.
*Move to Judiciary*

3.COMMUNICATION NO. 2021-131
Ed Lester, Butte-Silver Bow Sheriff requesting Council of Commissioners concurrence and authorization for the Chief Executive to sign the Memorandum of Understanding (MOU) between Butte-Silver Bow and the Southwest Montana Drug Task Force.
2021-131 MOU
*Hold in Abeyance*

4.COMMUNICATION NO. 2021-182
Carrie Keane, on behalf of Geo. Steele Co. requesting Council of Commissioners authorization to purchase the vacant Butte-Silver Bow property located at 750 S. Wyoming Street. It is our intention, upon approval of our application to use this property for a new metal sided garage which will house our new delivery vans.
2021-182 Maps
*Cross Reference 2021-182 with Communication No. 2021-240 and Place on File*
5. COMMUNICATION NO. 2021-208
Lori Baker-Patrick, BSB County Treasurer requesting Council of Commissioners to direct the County Attorney to prepare a Council Resolution authorizing the mailing of Tax Deed Notifications.
Cross Reference 2021-208 with Resolution No. 2021-18 and Place on File

6. COMMUNICATION NO. 2021-209
Ellen Crain, BSB Public Archives Director requesting Council of Commissioners concurrence to make a presentation at the May 19th, 2021 Council of Commissioners Meeting. The presentation will provide a report on the activities of the Archives/Chateau department for the year 2020.
Concur and Place on File

7. COMMUNICATION NO. 2021-230
Dori Skrukrud, Greenway Project Manager requesting Council of Commissioners authorization to request time on your May 26, 2021 Committee of the Whole meeting to present an update on the Silver Bow Creek Greenway.
Held in Abeyance until June 9, 2021 COW Meeting

8. COMMUNICATION NO. 2021-231
Karen Byrnes, Community Development Director requesting Council of Commissioners authorization to request time on your May 26, 2021 Committee of the Whole meeting to present information on the Uptown Master Plan.
Concur and Place on File

9. COMMUNICATION NO. 2021-248
Karen Byrnes, Community Development Director requesting Council of Commissioners to approve the letter from Amy Cline requesting to purchase Butte-Silver Bow property at 7 West Agate.
2021-248 Letter/Map
Hold in Abeyance

FINANCE & BUDGET COMMITTEE MEETING REPORT

MAY 26, 2021
6:00 PM BUTTE-SILVER BOW COURTHOUSE CHAMBERS
TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE-SILVER BOW COMMISSIONERS

Ladies and Gentlemen,
We, your Council of Commissioners, and Madame Chairman Cindi Shaw, respectfully recommends as follows: Expenditure report for the week of May 26, 2021 was reviewed and approved in the amount of $385,018.24 for 2021.

FINANCE AND BUDGET COMMITTEE MEMBERS PRESENT/ABSENT
John Sorich, Chair P
Josh O’Neill, Vice Chair P

City and County of Butte-Silver Bow
PUBLIC WORKS COMMITTEE MEETING REPORT

MAY 26, 2021
6:30 PM BUTTE-SILVER BOW COURTHOUSE CHAMBERS
TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE- SILVER BOW
COMMISSIONERS

1. COMMUNICATION NO. 2020-411
Brendan McDonough, Commissioner District 8 requesting Council of Commissioners consideration
that Butte-Silver Bow take over the outside maintenance of the Community Ice Center located at
Clark Park. The original operating agreement had the Butte Amateur Hockey Association
maintaining the grounds; however, I think BSB should assume the maintenance.
Hold in Abeyance

2. COMMUNICATION NO. 2021-245
Eric Mankins, Commissioner District 9 requesting Council of Commissioners to have the Public
Works Committee consider a speed study be conducted by the Montana Department of
Transportation on Iron Street (Exit and Entrance) both east and west bound traffic.
Hold in Abeyance

PUBLIC WORKS COMMITTEE PRESENT/ABSENT

Jim Fisher, Chairman P
Eric Mankins, Vice Chairman P
Dan Callahan P
John Sorich P
Justin Fortune P
Mark Neary P

JUDICIARY COMMITTEE MEETING REPORT

MAY 26, 2021
7:00 PM BUTTE-SILVER BOW COURTHOUSE CHAMBERS
TO THE HONORABLE CHIEF EXECUTIVE AND MEMBERS OF THE BUTTE- SILVER BOW
COMMISSIONERS

City and County of Butte-Silver Bow
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JUDICIARY COMMITTEE MEMBERS PRESENT/ABSENT

Bill Andersen, Chairman  P
Michele Shea, Vice Chairman P
Dan Callahan            P
Hattie Thatcher          P
Eric Mankins             P
John Sorich              P
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<td>Justin</td>
<td>Jim</td>
<td>Josh</td>
<td>Eric</td>
<td>Bill</td>
<td>Cindi</td>
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This message did not originate from a Butte-Silver Bow email account and therefore cannot be validated. Please ensure you respond accordingly and proceed with caution.

I had sent the following as written comments to be presented at the June 2 Council Meeting. I was unable to attend and when I viewed a tape of the meeting I did not hear these presented under written comments. I would like them presented at the next opportunity. Thank you very much for all of your work on behalf of Butte.

Dr. John W. Ray
915 West Galena St.
Butte, Montana

**Progress—Where we stand with the Montana Pole Plant**

Submitted by: Dr. John W. Ray-915 West Galena St., Butte, Montana

*When one is presented with some goods in the market place and is told that these are the best goods available, one accepts them and makes do.* Hegel

I have been involved with the Pole Plant Superfund cleanup for some time, going back to when it was an EPA lead many years ago. I have been a strong critic of the cleanup. But it is fitting and proper as well as right to recognize significant progress when it occurs. It is also important to keep pointing out remaining problems with the Pole Plant cleanup and hold the Montana Department of Environmental Quality (MDEQ), which is the lead agency spearheading the cleanup, accountable. MDEQ has been remiss in being open, accessible, accountable and responsive to the public. Community involvement activities by MDEQ need to be improved. People not only want to know what an agency is going to do but also why. The public justifiably requires more than just assurances that all will be well. Explanations backed by data are needed. The public also has a right to meaningful involvement in the process.

1. After conferring with an expert on bioremediation, I have come to accept the conclusion that, at the present time, bioremediation of dioxin is not practical. She has assured me that a CAMU, which if properly implemented, monitored and maintained, should be protective. I realize it is pointless pursuing a remedy such as bioremediation
that cannot happen. While it would have been preferable for bioremediation to work on the dioxin, she, and she is a trustworthy expert on bioremediation of sites such as the Pole Plant, told me that it is not feasible at present. I have also done my own extensive research and reached the same conclusion on my own about the inadequacy of bioremediation as an approach to cleaning up dioxin. A waste in place remedy that relies on institutional controls and caps is not the best solution but it is the best possible solution. The perfect cannot be the enemy of the good. The public will have to remain ever vigilant to ensure that the waste is place remedy is correctly initiated and maintained.

2. I have already addressed the cash out sufficiency cost issue in another email. I believe the mechanisms are in place to address this issue but greater transparency, openness and accountability are needed from MDEQ. MDEQ needs to more seriously consider what will be done if the current funds are inadequate for the cleanup. Simply telling the public don’t worry is insufficient. I have reproduced the extensive comments I made on cost at the end of this email. Again, I don’t think that MDEQ has taken this issue seriously enough.

3. MDEQ says there are no air or water emissions from the Pole Plant that exceed EPA standards. That is great news!!!!!

4. MDEQ has a comprehensive program for implementing the remedy, for monitoring the remedy’s functioning and for maintaining the remedy, at least on paper. But no piece of paper ever cleaned up a site, so the public will definitely need to be vigilant at staying involved with monitoring the remedy. MDEQ will need to be transparent and pro-active in providing information to the public. Too often getting information from MDEQ is like pulling teeth so to speak.

5. The state is committed to promoting environmental justice and that is very welcomed. We have yet to see however any concrete plan or proposal from MDEQ for doing this.

6. In the past, community involvement has been spotty at best. There is in place now a comprehensive community involvement plan and approach which the agency has committed itself to implementing. Hopefully, just as we are getting from EPA on their lead sites, the state will provide regular updates as to remediation activities at the Pole Plant. If not, we should demand that information be provided and that there are in place sufficient feedback mechanisms. It must be noted that effective community involvement has not been a hallmark of the state’s performance. If EPA can take a more active role things will improve. Over the last several years, EPA has been effective with the community involvement under Robert Moler and currently under Dana Barnicoat.
7. Odors have been a problem at the Pole Plant. Odors emanating from sites such as the Pole Plant are not just indicators of environmental problems but are problems in and of themselves for sensitive populations. MDEQ has committed itself to monitor and to the extent possible ameliorate the problems of odors from the Pole Plant. With the above said, it appears from presentations made by MDEQ that they as yet do not have a handle on what to do about odors emanating from the Pole Plant. MDEQ must clearly articulate what plans are in place to mitigate odors emanating from the Pole Plant and what back up or redundant procedures are in place should initial efforts prove to be unsuccessful.

8. The state is aware of the problems regarding sites with areas that adjourn each other, have different cleanup standards and touch each other such as at the Pole Plant. Sincere efforts, I believe are being made to address this issue. We need more information from the state as to what those efforts are going to be.

9. The state has pledged a robust effort to monitor the CAMU performance. While just relying on the Five-Year Review would be inadequate, the state has pledged to monitor the site on a regular, frequent basis. Again, the public should look forward to reports. However, MDEQ’s specific monitoring protocols are unclear and need to be fleshed out for the public.

10. MDEQ has said that should bioremediation be feasible in the future; they will reevaluate its use. That is good to hear. I don’t know how really committed the sate is to this but we can hope.

11. The state has committed itself to working with local authorities to help in the development of future land uses of the site as appropriate. That is welcomed. Butte local government has an excellent Superfund team in place and we can be confident that they will be vigilant.

12. The institutional controls needed at the site are also poorly conceived and articulated. Hopefully, that will improve in the future.

13. Serious contamination under the interstate has yet to be addressed and needs to be fairly quickly. What will the cost be? How will it be done? Who will do it? When will it be done? We need answers to these questions sooner rather than later.

14. While this is an MDEQ lead, this is a federal Superfund site and EPA has been actively involved. The current EPA project manager is trustworthy, open and very competent. The public can rely on her for accurate and timely information. The public can take added assurance that the remedy will be implemented correctly given the available EPA expertise. EPA has also pledged to be involved in the community involvement efforts at the Pole Plant. Again, EPA has an excellent community involvement person working in Butte and that should give the public confidence that we
will be well informed and involved. I personally would welcome greater EPA involvement.

15. I think that MDEQ is sincere in its commitment to develop and implement a fully protective remedy at the Pole Plant. I have been impressed with their verbally expressed commitment to provide and promote effective community involvement. But words need to be matched with deeds. In the past the state has promised more effective community outreach and it has not materialized. We will see is action matches words.

The cleanup of the Pole Plant has been spotty in the past. But I think, based on what I have heard and read recently and after reading the responsiveness summary to public comments regarding the ESD as well as statements from agency personnel, we have hopefully turned the page on the cleanup and can look forward to a protective remediation effort that should address human and environmental concerns. It remains for the MDEQ to be transparent with the public and for the public to maintain its vigilance. But we are on the right track if MDEQ does what it says it will do.

Much more work needs to be done by MDEQ in the area of community involvement, particularly in terms of keeping the neighborhoods adjacent to the Pole Plant fully involved and informed. Incorporating environmental justice concerns into the ongoing cleanup is in the nascent stage and unclear at present. MDEQ needs to address the contamination under the interstate.

It is pointless to wish for what cannot be in terms of environmental cleanup. Superfund sites clearly attest for the need of pollution prevention in the first place. Few polluted sites can be made totally whole. So, we have what is probably the best possible remedy for the Pole Plant. Bioremediation of dioxin doesn’t work at present; it is a waste of time to wish it did. This is a cash out site and we are constrained by that. Much more needs to be done with regard to odor prevention and control, articulating institutional controls, community involvement, addressing contamination under the interstate and environmental justice. But the framework for a successful cleanup is present and we must strive to succeed in that endeavor. As I said before, constant oversight and scrutiny of what the state is doing is needed. We need to hold MDEQ accountable for providing timely information and providing venues for meaningful public involvement.

Cost and the Pole Plant

1. Hopefully, there will be enough money. But I have grave doubts about this. The state has steadfastly maintained that there will be enough but the cleanup as a waste in place solution will have to last a long time into the future based on dollar amounts calculated last century. Let us do the math as we know it. 29 million remains in the cash out fund. The yearly cost of operating the water treatment plant ranges on the low
end to 400,000 per year and the high end to 1 million. The necessary life of the water plant, at a minimum is 46 years. So, splitting the difference, let us say the yearly cost is 700,000 over 46 years that would be: 32.2 million. (If the cost is a million a year, we are looking at 46 million, which would make the deficit much higher.) Add to that the cost of the CAMU construction is around 2 million, the switch to a cap instead of bioremediation is around 1.5 million and added to that will be the cost of removing contamination from under the interstate which could be 7 million. So far, we have reached 43 million. Subtracting that from the 29 million remaining, we have a deficit of about 14 million. If the water treatment plant is a million a year, the deficit would be 28 million. That deficit does not include the cost of operation and maintenance of the site, Also, the water treatment plant may well have to go more than 46 years. Remember too, that government cost predictions are often grossly underestimated. Things always seem to cost more than planned. Who will pay for the cost overrun? Will the cleanup be compromised? THIS IS A SIGNIFICANT POTENTIAL SHORTFALL!!

2. If the money proves to be inadequate, there are reopeners in both the CD for the Pole Plant and the Memorandum of Agreement. (Section VIII, paragraph 19 of the CD and the Memorandum of Agreement between the EPA and MDEQ of 1996.)

3. If it becomes necessary to reopen, a 6-million-dollar immediate, upfront cost, to be borne by the agencies, will be incurred for reopening the cash out settlement. Here it could become tricky. It is estimated that the major portion of the 6-million-dollar reopener would be borne by EPA and about 20% by MDEQ. MDEQ has a legally binding agreement with EPA to complete the cleanup as specified in the ROD and CD for the site. (Above this 6-million-dollar reopener fee the state would roughly have to come up with between 8 and 22 million in new money.)

4. EPA would seek to obtain that money from the Superfund Priority Panel. This would be likely in that this is an on-going project and EPA would not abandon an ongoing cleanup. The state says that it would seek a legislative appropriation for their portion. However, the legislature only meets every two years and given the current political climate approval by the legislature is far from assured. What happens if the state can’t find 1.2 million for its portion? EPA might then foot the whole bill. Or the settlement for the site could be reopened and EPA could go after the PRPS.

5. The PRPs could challenge the reopening in court but, in general, the courts side with an agency determination that more funds are needed. But again, this is uncertain.

6. Cost concerns we are assured and promised by MDEQ will not be allowed to diminish the cleanup specified in the ROD and the CD. But any legal obligation incurred by these promises is unlikely.

7. MDEQ will have to demonstrate the need for additional monies clearly and accurately.
So, there remain major and significant cost uncertainties. But, unless you are the Oracle at Delphi, predicting the future is always uncertain, particularly when it comes to monetary issues. There is cause for concern, big cause. It does appear that it seems that it is more likely than not that additional monies would be found should that be a necessity. But that is far from certain. But it looks like there will be a cost overrun that is significant. MDEQ should not gloss over this. Full transparency, which we have not had from the state, is warranted and should be demanded.

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CITY-COUNTY

J.P. GALLAGHER
CHIEF EXECUTIVE

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