

PUBLIC WORKS COMMITTEE REPORT

October 13, 2010 9:30 AM

City Council Chambers

Members Present: Jason Wiener (chair), Ed Childers, Dick Haines (arrived 10:00 AM), Lyn Hellegaard, Bob Jaffe, Renee Mitchell, Stacy Rye, Pam Walzer, Jon Wilkins

Members Absent: Roy Houseman, Marilyn Marler, Dave Strohmaier

Others Present: Steve King, Doug Harby, Don Verrue, Gregg Wood, John Hendrickson

I. ADMINISTRATIVE BUSINESS

- A. Approval of the minutes of [September 29, 2010](#) Approved as submitted
- B. Announcements –Gregg Wood, Project Coordinator, announced that on Friday, October 15, 2010 from 4:00 PM to 7:00 PM there would be a celebration for the completion of the North Higgins Avenue project; including bands, bike rides on the new lanes, etc. He said this was to celebrate the completion of the project and to thank all the businesses for their cooperation.
- C. Public Comment on Non-Agenda items –None

II. CONSENT AGENDA ITEMS

1. Consider an ordinance amending Chapter 15.32 Missoula Municipal Code entitled "Building Permits" instituting a fee for international energy conservation code special inspections and creating a flat fee for residential re-roofing. ([memo](#))—Regular Agenda (Don Verrue) (Referred to committee: 10/01/10)

Motion: The committee recommends the City Council set a Public Hearing on November 8, 2010 to consider and adopt an ordinance amending Chapter 15.32 Missoula Municipal Code entitled "Building Permits" instituting a fee for international energy conservation code special inspections and creating a flat fee for residential re-roofing; and establishing a fee for wind installation.

Don Verrue, Building Official, said the state of Montana adopted the 2009 International Energy Conservation Code last spring, and the City of Missoula adopted the code on June 1, 2010. One of the provisions in the code is that new residential housing must have a third party inspect the new energy code requirements. He said the Building Department has recommended \$75.00 dollars an hour fee for these inspections which average approximately two hours; he said private companies charge about \$75.00 per hour.

Don Verrue said the second amendment request is to establish a flat fee rate for residential re-roofing permits. He said the Building Department is recommending a standard fee of \$120.00; and this would cover the costs for the two required inspections per permit.

Ed Childers asked who certifies the private companies and Don Verrue said the HERS Rater Company certifies the private companies in Missoula. Ed Childers made the motion to recommend the City Council set a Public Hearing on November 8, 2010 to consider and adopt amendments to institute a fee for energy conservation inspections and a flat fee for residential re-roofing permits in Missoula Municipal Code Title 15, Chapter 15.32 entitled Building Permit. Jason Wiener asked for the range of fees for re-roofing. Don said the permit fees range from approximately \$80.00 to \$180.00. Jason also said the Building Department requested a fee for wind generators and solar installations last year, when that was discussed the wind generators were denied by the Committee; Jason asked if there were any objections to re-adding that request to these amendments, Section 1. A, c - Solar and wind installations with a \$75.00 fee.

Ed Childers said he had no objections to the additional amendment.

Public Comment:

John Hendrickson said he has met with Don Verrue on numerous occasions associated with several businesses and although he does not like to see increased fees he feels these are acceptable because of the multiple inspections involved. He said the MBIA and Don have been working together to offer training classes to certify the City inspectors. He said the City has been very cooperative working through the extensive International Energy Conservation Code (IECC) regulations. He thanked Don for his and the City's cooperation.

Ed Childers asked Don Verrue if the inspectors had the qualifications to inspect solar and wind installation.

Don Verrue said engineers would design the structure and footings for solar installation and the City inspectors would verify that the designs were met.

The motion for the Public hearing on November 8, 2010 passed unanimously.

III. REGULAR AGENDA ITEMS

1. Approve and authorize the Mayor to sign an agreement with the Montana Department of Transportation (MDT) for the acquisition of one new street sweeper. ([memo](#))—Regular Agenda (Jack Stucky) (Referred to committee: 10/01/10) **(HELD IN COMMITTEE) NO DISCUSSION**
2. **[Discussion Date: 10/13/2010]** An [ordinance](#) amending Chapter 15.44 and renaming the chapter from “House Moving” to “Oversize Loads and House Moving” to include oversize loads and update fees and regulations and an [emergency ordinance](#) amending Chapter 15.44 and renaming the chapter from “House Moving” to “Oversize Loads and House Moving” and amending Chapter Transportation project, which will move a large number of oversize loads through Missoula. ([Emergency Ordinance - Jaffe - Underline/Strikeout](#)) ([Explanatory Notes – Jaffe](#)) ([Memo](#)) ([PW](#)) ([Wiener Edits 9/28](#)) **(HELD IN COMMITTEE)**

Jason Wiener said there are three topics he would like to discuss, the adequacy of the bonding, the adequacy of the fees, and addressing overlapping jurisdictional concerns with other governing agencies reviews.

Steve King, City Public Works Director, explained the purpose of bonding was intended to be a license bond for assurance of compliance with the ordinance, and a reclamation bond for site remediation to clean the site, meet zoning requirements and be safe. He said these bonds have been in place with old fees for the license bond being \$10,000.00 and the staff recommendation is that the bond be increased to \$20,000.00; and the site remediation bond was \$2,000.00 and the recommended increase is to \$20,000.00. Both of these bond increases were approved with the emergency ordinance and are now in effect. Steve said we have been discussing the typical routine house moves and the staff feels these fee increases are adequate for these types of moves. He said what is new is the extraordinary oversize loads such as the Kearn project that are using the highways and the bonds associated with those types of loads. What the staff has not recommended is changing our license bond in response to those because the State has licensing and bonding associated with oversized load permits. He said what we are trying to account for is the potential indirect costs related to those oversized loads and we do not want to create an ordinance that penalizes the local regular house moving businesses. He said we need to find a balance to separate our local businesses from some extraordinary situation that is happening on Reserve Street and Highway 93. He said Public Works is not making any recommendations as a staff for increasing the bonding other than the current fees in place with the emergency ordinance.

Jon Wilkins said if the house mover is responsible for the license bond; who is responsible for the site reclamation. Steve King said it is the property owner's responsibility; the property owner posts a \$20,000.00 reclamation bond and if they do not meet the requirements in the time directed in the ordinance then the City would work with the Office of Planning and Grants (OPG) and cooperatively with the property owner to restore the site, the bond would be used as a last resort.

Bob Jaffe said he feels there isn't a need to have redundant bonding assuming the State bonding requirements meet our concerns. He said we could have language to say that if the State bonding is inadequate or we don't agree with their requirements we could deny the permit. Bob said another concern is if we don't agree with the State's assessments of damages what would be the City's ability to make a claim against the State's bond.

Steve King said because this is a State bond the City would work with the State on any type of identified damage. He suggested we have the City Attorney address the City's legal rights and responsibilities. He said the State and the bonding company would work collaboratively, and the City would be in an advisory role not an enforcement role to cash in that bond. Steve said the City has a very good and ongoing working relationship with the Montana Department of Transportation (MDT).

Bob Jaffe said he felt we need something more in the ordinance that would offer the City some additional assurance for protection.

Pam Walzer asked what the bonding amounts for the State were and she asked Steve King if in his opinion the bond was sufficient. Jason Wiener said the state requirement bond was twenty million dollars, and Steve King said in his opinion that was adequate.

Bob Jaffe asked for a time line schedule on the ordinance process.

Jason Wiener said the emergency ordinance runs through November 22, 2010. If a regular ordinance was passed it would need to be done by Monday, October 18. He said another option would be to adopt an emergency ordinance with a regular ordinance to include intended permanent language anytime until November 22nd; they could also opt to extend the existing emergency ordinance to allow more time to work on it. Jason suggested if the intent was to adopt another emergency ordinance to do so with the intended final language. He said regarding the adequacy of the fees and the overlapping jurisdiction he feels they need additional input from the Public Works staff and administration.

Jason Wiener said the City currently has a flat fee to cover staff costs for processing the permits for all moves. He said in his research with other cities the opinion is that an extraordinarily large load has an extraordinary impact on the roads. He suggested that the Public Works staff evaluate these oversized loads and assess incremental fees based on the impacts they have.

Steve King said the current fee structure covers the staff time to process the permits and that is very different from trying to assess the costs of impacts to City infrastructure, which is the load degradation of City roads. The challenge is to determine if it would be worthwhile to calculate and collect the fees for these types of loads. He said what we do know is that the State and Federal governments do not cover a hundred percent of the costs of the work on Reserve Street or Highway 93; they look to the local government for a local match of funds.

Bob Jaffe said that he is concerned the local twenty-five percent match would not be sufficient if we did have to repair damages. Depending on the type of road, the impact on the road changes, and the unintended consequences would cause more damage on secondary roads and would cost more to repair.

Steve King said we could classify the structures of our local road system and what the impact of an oversized load would be. He said these oversized loads are rare occasions; the routine loads of trash service, city busses, moving trucks, etc. on those roads are significantly more often and cause a bigger detriment to the roads than the occasional oversize load. He said that his concern is if it would be worth the effort and time to collect and calculate additional fees for the rare oversize load. He said he wants to quantify those ratios and bring them to the committee for discussion.

Stacy Rye said there will be direct and indirect costs associated with these oversized loads and she does not think these loads will be rare or infrequent. She said she is not interested in subsidizing anything that does not bring something to Missoula's economy. She would like to know if the Montana Department of Transportation is actually requiring the seventy-five percent funds on their end.

Steve King said he does not know the source or vintage of the Montana Department of Transportation (MDT) formulas or rates, he said they do have rates for axle load, the higher the load the higher the fee and then it is based on each twenty five miles; the longer hauls have larger fees. He said what they are paying for is not clear but we can ask them what those fees cover and if they are current with modern road costs.

Jason Wiener said he has reworded the section on the overlapping jurisdictions from refusal of a permit to grounds for issuing permits, section 15.44.060 B. This rewording is to commit to check the work of the State and Federal partners. It questions who the responsible local party will be for making the determination, there are several entities such as the Building Official, Public Works, and Police Department etc. that have some portion of input.

Ed Childers says he thinks we need the City Attorney to address these issues.

Steve King said the Mayor has a weekly Administrative Leadership Team (ALT) meeting and any of the Council members interested in the item could attend and discuss these issues when they are scheduled on the agenda.

Jason Wiener said this provision is important in case Missoula becomes a permanent corridor for these oversized loads. If there is no objection he will ask the Administrative Leadership Team (ALT) to schedule this on the agenda and give us formal feedback on the administration of this provision. He said this puts us on track to have this in committee again on November 3rd with complete calculations and feedback from the Administrative Leadership Team (ALT) so that a decision could be made on November 8th to schedule an adoption of the ordinance or a Public Hearing in order to get the ordinance adopted.

HELD AND ONGOING AGENDA ITEMS

1. Discussion on the sizes of grease interceptors for the restaurant industry ([Grease Interceptor PowerPoint](#)) ([memo](#)).—Regular Agenda (Stacy Rye and Bob Jaffe) (Referred to committee: 04/21/08)
2. Review infrastructure conditions at the locations of serious and fatal traffic accidents: 2007-2009 ([memo](#)).—Regular Agenda (Jason Wiener) (Referred to committee: 01/25/10)
3. Resolution to restore vacated Inez Street at South 2nd Street to the public trust and public use, and vacate a public access easement that was a condition of the vacation ([memo](#)).—Regular Agenda (Carla Krause) (Referred to committee: 04/26/2010)
4. T4 America partner support ([memo](#)) – Regular Agenda (Stacy Rye) (Referred to committee: (Referred to committee: 08/16/10) HELD IN COMMITTEE)
5. Use of \$60,000 allocated by FY2011 Budget in Road District #1. ([memo](#))(Five Year Assessments Chart)—Regular Agenda (Ed Childers) (Referred to committee: 09/20/2010) (**HELD IN COMMITTEE**)

III. ADJOURNMENT

Meeting adjourned at 10:30 AM

Respectfully Submitted,

Peggy Diamond
Program Specialist
City Public Works Department