

**PUBLIC WORKS COMMITTEE REPORT**  
**April 27, 2011 2:35 PM**  
**City Council Chambers**

**Members Present:** Jason Wiener (chair), Ed Childers, Lyn Hellegaard, Bob Jaffe, Marilyn Marler, Renee Mitchell, Dave Strohmaier, Pam Walzer

**Members Absent:** Dick Haines, Stacy Rye, Jon Wilkins, Cynthia Wolken

**Others Present:** Steve King, Kevin Slovarp, Doug Harby, Monte Sipe, Gregg Wood, John Hendrickson, Michelle Allen, Matt Zarko

**I. ADMINISTRATIVE BUSINESS**

- A. Approval of the minutes of – April 20, 2011 Approved as amended:  
Referral No.3, Motion: Date of Public Hearing corrected from May 23 to May 9, 2011.
- B. Announcements – None
- C. Public Comment on Non-Agenda items – None

**II. CONSENT AGENDA ITEMS**

1. Bid award for asphalt repairs project 11-004: Mullan Road – Reserve to Broadway. (memo) – Regular Agenda (Doug Harby) (Referred to committee: 04/11/11) (REMOVE FROM AGENDA)

**Motion:** The committee recommends the City Council award the bid for Project 11-004, Mullan Road-Reserve to Broadway Asphalt Repairs to Knife River, including the Base Bid amount of \$137,162.50 and Alternate No. 1 amount of \$110,000.00 for a total contract award of \$247,162.50 and authorize return of bid bonds.

Doug Harby, Construction Project Manager, said the street paving infrastructure received a significant amount of damage over the winter due to the unusually large number of freeze and thaw cycles. Recognizing the City would not have time to complete the priority repairs the Public Works Department solicited bids to perform the repairs on Mullan Road between Reserve and Broadway. There were two bids, a Base Bid amount of \$137,162.50 and an Alternate Bid Number 1 of \$110,000.00 for a total contract award of \$247,162.50. He asked the committee to award the total contract to Knife River.

Pam Walzer asked why there was no breakdown of bid prices in the Engineering estimates just the total estimate of \$5,000.00.

Doug Harby said this type of bid was a new process and they did not know what the costs would be, they did know the approximate amount of money available and by using the figures from the Street Maintenance Division estimate and the money available that gave them an idea of the costs but did not give a true Engineering estimate to use.

Pam Walzer made the motion to recommend the City Council award the total contract of \$247,162.50 to Knife River and authorize the return of bid bonds.

The motion passed unanimously.

2. Approve amendment no. 1 to the professional service contract between the City and WGM Group, Inc. on the South Missoula Sewer Project. (memo) – Regular Agenda (Kevin Slovarp) (Referred to committee: 04/18/11) (REMOVE FROM AGENDA)

**Motion: The committee recommends the City Council approve and authorize the Mayor to sign Amendment No. 1 to the existing City / WGM Group, Inc. Agreement in the amount of \$22,700.00 for professional services on the South Missoula Sewer Project.**

Kevin Slovarp, City Engineer, asked the committee to recommend the City Council approve Amendment No. 1 to the existing City/WGM Group, Inc. in the amount of \$22,700.00 for professional services on the South Missoula Sewer Project. This amendment is payment for out-of-scope professional engineering services. The amount of \$22,700.00 was broken into four categories, \$10,000.00 for design services of sewer service line design, landowner coordination, County coordination/modification and coordination with the Miller Creek Road Project; \$3,000.00 in construction services of geotechnical testing; \$3,000.00 in design services for relocation of the lift station ; and \$6,700.00 in design services for review of the lift station design. It is anticipated that some savings will be realized with the completion of engineering services for the Linda Vista Boulevard Interceptor Project but not enough to make up for the out-of-scope items.

Pam Walzer made the motion to recommend the City Council approve Amendment No. 1 in the amount of \$22,700.00 for professional services on the South Missoula Sewer Project.

The motion was passed unanimously.

3. Award the bid for Project 09-039, Lower Miller Creek Road Curb and Sidewalk Improvements and authorize the return of bid bonds. ([memo](#))—Regular Agenda (Monte Sipe) (Referred to committee: 04/25/11)

**Motion: The committee recommends the City Council award the bid for Project 09-039, Lower Miller Creek Road Curb and Sidewalk Improvements to LS Jensen Construction and Ready Mix for the base bid of \$411,558.85, and authorize return of bid bonds.**

Monte Sipe, Construction Project Coordinator, this is a bid award consideration for Project 09-039 Lower Miller Creek Road curb and sidewalk improvements. It is funded by Western Federal Lands Highway Division through an agreement with the City. This project is limited due to funding and was put out to bid; it included a base bid plus four alternate bids. The base bid includes construction of curb/gutter, sidewalk, storm drainage and necessary asphalt paving improvements on the south side of Lower Miller Creek and a short segment of curb/gutter on the north side. The alternates were included at the time of the bid because we were not sure which bid items could be paid for with the available amount of funding. In the referral we were recommending the base bid plus alternate three and four for chip sealing and epoxy painting. We were not able to include these in the existing budget and so we are recommending only the base bid be awarded to LS Jensen Construction in the amount of \$411,558.85.

Renee Mitchell made the motion to recommend the City Council award the bid for Project 09-039 to LS Jensen in the amount of \$411,558.85 and return the bid bonds.

Kevin Slovarp said if we realize any savings on the project Public Works would bring the two alternates for chip sealing and epoxy painting back to the committee for award. If we do not do the work with the project Public Works will try to do the chip seal next year and the city crews would use regular water based paint, not epoxy.

Renee Mitchell asked if the chip seal for Miller Creek that was not done fall would be done this spring. Monte Sipe said that was part of the remaining work LS Jensen has to do and it should coincide with this project. Construction is anticipated to start in June as soon as school is out.

The motion was passed unanimously.

Approve Amendment No. 1 to the existing City / DJ&A Professional Services Agreement on the Lower Miller Creek Road Curb and Sidewalk Project. ([memo](#))—Regular Agenda (Monte Sipe) (Referred to committee: 04/25/11) (REMOVE FROM AGENDA)

**Motion: The committee recommends the City Council approve and authorize the Mayor to sign Amendment No. 1 to amend the City / DJ&A Professional Services Agreement in the amount not to exceed \$26,116.50 for construction engineering services on the Lower Miller Creek Road Curb and Sidewalk Project.**

Monte Sipe said this amendment in the amount of \$26,116.50 is for construction engineering services to be done by DJ&A during LS Jensen's construction contract. The various work tasks are defined in Amendment No. 1 Attachment A.

Renee Mitchell made the motion to recommend the Council approve Amendment No. 1 to the existing City/DJ&A Professional Services Agreement on the Lower Miller Creek Road curb and sidewalk project in the amount of \$26,116.50.

The motion passed unanimously.

Ordinance amending Section 13.04.020 entitled "Connection to Public Sanitary Sewer upon Property Transfer-Required" pertaining to gray water discharge and providing exceptions to public sanitary sewer connections upon property transfer. ([Public hearing draft of ordinance](#)) ([Proposed ordinance amendments](#)) ([Me mo](#)) ([PW](#)) (Returned from Council floor: 04/11/11)

**Motion: The committee recommends the City Council adopt an ordinance amending Missoula Municipal Code Chapter 13.04.020 entitled Connection to Public Sanitary Sewer upon Property Transfer-Required pertaining to gray water discharge and providing exceptions to public sanitary sewer connections upon property transfer.**

Steve King, Public Works Director, said for clarification the version we are looking at for today's consideration in the packet is titled Proposed Amendments 4/11/2011. It contains the amendment to Section 13.04.020 D that creates the exception for the foreclosure situations.

Pam Walzer said financial institutions bundle and sell mortgages and she wondered if language could be included to cover foreclosures sold to another institution to help protect the homeowner who would be responsible for the sewer connection.

Dave Strohmaier asked if people were genuinely being denied refinancing because of this wording in the ordinance or is this one of many reasons for denial.

Steve King said the staff referred this amendment after Public Works proposed for approval of "the connect on sale" to the Council. Complaints were received from private individuals that had their refinancing denied because of this potential encumbrance on the property. We tried to solve this administratively with letters from the City Attorney but the lending institutions said these letters were not satisfactory. Local representatives from lending institutions and the City Attorney recommended amending the ordinance.

Ed Childers asked which part is in controversy, the part where the lending institution repossesses a property that they would have to hook up to the sewer or the part where the lending institution repossesses a property and sells it the new buyer and the buyer would have to hook up to the sewer.

Steve King said what he received was from an applicant that applied for the loan and their application was either suspended or questioned, it did not get to the refinancing stage.

Michelle Allen with Mountain West Bank said when they refinance a loan they close the loan in their name and then sell the loans to a secondary market, they work with multiple markets. When she tried to refinance a loan she called every market they work with and asked if this would be an issue with this loan and every market said they would not purchase this loan with a cloud on the title. If we were to close on this loan and not be able to sell it we would have to hold it on our books, the way we keep the best interest rates is to sell the loan.

Jason Wiener said we have had this ordinance for a long time and he asked why this is an issue now. It was not a problem before and because the dynamics of the economy have changed we are expected to change our rules. It is not the idea that a bank should not be able to take title on a foreclosed property but that the bank should not be the only exception in the city limits that can sell a house that is not connected to the sewer and not have the buyer connect when private citizens in the same situation have to.

Matt Zarko with Western Title and Escrow said the biggest reason is the changing dynamics of the market. Previously there was not much concern about foreclosures by lenders. When we inquired with the City Attorney we were told this was not to prevent refinancing and it was shown as a subordinate part of a loan, it did not change if the bank took title and it would not be implemented. Now with the changing market financial institutions are looking at this as a red flag.

Ed Childers said he spoke with a mortgage banker and asked about this problem and was told they had never run into this problem but they are aware of the requirement to hook up to the sewer. The problem they have is they only finance eighty percent of the equity, some people bought houses that have now dropped in value and they don't have eighty percent equity so they cannot be refinanced with or without the requirement to hook up to the sewer. There is a point where the owner may have the required eighty percent equity but when the amount of a sewer hookup is added they end up without the required equity. Is this the issue you are trying to address?

Michelle Allen said their problem is the secondary market. Because there are so many more foreclosures now those secondary markets are looking at things more aggressively and are trying to find reasons to say no. The loan to value is not the deciding factor when someone is trying to refinance.

Ed Childers asked if you would be prohibited from including funding to hook up to the sewer in the refinance amount. Michelle Allen said that had to be done prior to closing and could not be done after the refinancing.

Jason Wiener said what they want is the notice of noncompliance off the title. Michelle Allen said if it is on the title that is okay as long as it says through a foreclosure the lender will not be required to deal with that situation and cost.

Pam Walzer said we do not want to make the bank install sewer connections but we want to make sure when someone purchases the property to actually live in it then we want to insist at that point the sewer be connected. Is there a way to work around that?

Michelle Allen said lending institutions want to know their collateral is good collateral, because there were so many bad loans they want to know the property is a saleable property and that would be a hindrance.

Lyn Hellegaard said we are talking about a delay not a total forgiveness of ever having to hook up to the sewer. Not being able to sell loans to secondary markets makes it difficult for local banks.

Marilyn Marler asked why a bank that owns a foreclosed property should not have to connect to the sewer at the point of foreclosure, anyone else in the city would have to work out a buy sell agreement. Banks would have an advantage to selling a house over a private individual because the bank has one less requirement.

Michelle Allen said it is an additional unknown cost and with so many unknowns the banks don't even want to buy loans that have any clouded language in it.

Bob Jaffe said banks don't want to take any additional risks. We need to decide what we are going to do with this ordinance because in the end it doesn't hurt the bank but it does hurt the local people.

Bob Jaffe made the motion to amend the ordinance as recommended by the staff to section 13.04.020 section D to allow exceptions to connection requirements for some foreclosure situations.

Dave Strohmaier said the reason for the ordinance in the first place was to try to ensure we have clean water in Missoula and to have as many of these properties connect as possible.

Pam Walzer said we do have to consider the local people who need refinancing.

Marilyn Marler said we are being abused by money but we must choose our battles, some of these sewers will fail anyway and will have to connect at some point.

Ed Childers called the question to end the debate, the vote was unanimous.

The motion was passed unanimously.

### **III. REGULAR AGENDA ITEMS**

1. A resolution to confirm final ordering of curb and sidewalk improvements adjacent to properties in the University Area Ph. III – McLeod to Beckwith, Project 06-047. ([memo](#))—Regular Agenda (Monte Sipe) (Referred to committee: 04/25/11) (REMOVE FROM AGENDA)

**Motion: The committee recommends the City Council adopt the resolution to confirm final ordering of curb and sidewalk improvements adjacent to properties in the University Area Ph. III – McLeod to Beckwith, Project 06-047.**

Monte Sipe, Construction Project Coordinator, said the first two items pertain to the University Area Phase III Project; the first portion is a resolution to confirm the order for curb and sidewalk improvements. This project was previously ordered on June 7, 2010, it was a ninety day contract and it was too late to complete the project last year so a postponement letter was sent out and this project was deferred until this year. This resolution provides property owners the opportunity to opt out of the project and construct those improvements with a private contractor. Eighteen (18) property owners have opted out and the remaining one hundred seventeen (117) property owners are included in the resolution. He asked the committee to consider the recommended motion as presented.

Renee Mitchell asked why some assessments with the same person and same address were listed with different amounts of assessments with small amounts listed in one place and a few spaces down the list a much larger assessment.

Monte Sipe said each individual parcel is assessed separately, the last two columns show the original cost estimate based on the field measurements and our engineers estimate, after the bid we recalculated based on the low bidder and the last column shows the difference between the low bidder's price and our engineers estimate. The estimates from top to bottom vary substantially based on the improvements needed for each specific parcel, some may need a couple of sidewalk grinds or a small section of sidewalk to repair, other parcels may not have a sidewalk at all and sometimes there are curb replacements or driveway approach improvements, and that is why the fluctuation in the dollar amounts. He said some people also own more than one property.

Pam Walzer made the motion to confirm final ordering of curb and sidewalk improvements in the University Area Phase III, Project 06 047.

Lyn Hellegaard said she would not support this motion because she has received several phone calls and emails from University area homeowners that are upset we are doing this project. She said she is receiving phone calls and letters about the taxes the City is going to be raising and she feels in these economic times we need to back off on the homeowners.

The Motion was passed with seven ayes and one nay by Lyn Hellegaard

2. Award the bid for Project 06-047, Curb and Sidewalk Improvements adjacent to properties in the University Area Ph. III – McLeod to Beckwith and authorize the return of bid bonds. ([memo](#))—Regular Agenda (Monte Sipe) (Referred to committee: 04/25/11) **(REMOVE FROM AGENDA)**

**Motion: The committee recommends the City Council award the bid for Project 06-047, Curb and Sidewalk Improvements adjacent to properties in the University Area Ph. III – McLeod to Beckwith to CSS Contracting, Inc. for the sum of \$325,139.68 and authorize return of bid bonds.**

Monte Sipe said the second portion of this is the bid award recommendation to CSS Contracting in the amount of \$325,139.68. Four bids were received on this project and CSS Contracting was the apparent low bidder.

Pam made the motion that the City Council awards the bid for Project 06-047 in the University area, Phase III to CSS Contracting, Inc. in the amount of \$325,139.68 and return of bid bonds.

The motion was passed with seven ayes and one nay by Lyn Hellegaard.

#### **IV. 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. T4 America partner support ([memo](#)) – Regular Agenda (Stacy Rye) (Referred to committee: (Referred to committee: 08/16/10)
4. Presentation from Public Works staff regarding proposed process for finding contractors and awarding bids for reconstruction of Russell Street. ([memo](#))—Regular Agenda (Bob Jaffe) (Referred to committee: 11/15/2010)
5. Resolution to change the speed limit on Reserve Street between Brooks and 39<sup>th</sup> Street. ([memo](#))—Regular Agenda (Wayne Gravatt) (Referred to committee: 01/24/11)
6. Confirm the reappointments of Carol Williams and Theresa Cox to the Missoula Parking Commission for a term commencing May 1, 2011 and ending April 30, 2015.
7. Consider an ordinance amending Missoula Municipal Code Chapter 15.32 Entitled “Building Permits,” Providing for Low Voltage Permits. ([memo](#))—Regular Agenda (Don Verrue) (Referred to committee: 02/07/11)
8. Resolution stating its intention to consider the vacation of portions of Regent Street in the Homevale Addition, the intersection of Brooks and Stephens and the alley in Block 40 of the Union Addition. ([memo](#))—Regular Agenda (Jessica Miller) (Referred to committee: 03/28/11)
9. Consider amendments to Missoula Municipal Code 13.04, Sewer Regulations, related to gray water systems and connection upon property transfer. ([memo](#))—Regular Agenda (Steve King) (Referred to committee: 03/14/11)
10. Update from the Parking Commission. ([memo](#)) ([Parking Fines](#)) ([Policy Review](#)) ([Ltr: Iowa](#)) ([Ltr: Hensley](#)) ([Draft Parking Ordinance](#))—Regular Agenda (Bob Jaffe) (Referred to committee: 03/07/11)

11. Consider an ordinance and emergency ordinance of the Missoula City Council amending Missoula Municipal Code Chapter 3.18 entitled Sewer Connection Expense Relief Loan Program. ([memo](#))—Regular Agenda (Kevin Slovarp) (Referred to committee: 04/18/11)
12. Approve the installation of an indoor shooting range at 1010 North Avenue per MMC 9-62.040. ([memo](#))—Regular Agenda (Doug Harby) (Referred to committee: 04/18/11).

### **III. ADJOURNMENT**

The meeting adjourned at 3:38 PM

Respectfully Submitted,  
Peggy Diamond, Program Specialist  
City Public Works Department