

## PUBLIC WORKS COMMITTEE REPORT

May 13, 2009, 2:05 PM

City Council Chambers

**Members Present:** Jason Wiener (Chair), Ed Childers, Dick Haines, John Hendrickson, Bob Jaffe, Renee Mitchell, Dave Strohmaier, Pam Walzer, Jon Wilkins

**Members Absent:** None

**Others Present:** Marilyn Marler, Doug Harby, Steve King, Jack Stucky, Monte Sipe, Stacy Rye, Keila Spzaller, Kevin Slovarp, Maxine Lane, Jon Miller, Ryan Hickey, Craig Schaefer, Debbie Johnson

### I. ADMINISTRATIVE BUSINESS

- A. Approve minutes of May 6, 2009 as submitted or corrected – Approved as submitted
- B. Announcements – None
- C. Public Comment on Non-Agenda items – None

### II. CONSENT AGENDA ITEMS

1. Review bids for curb and sidewalk improvement project and pass a Resolution to Confirm the Order for curb and sidewalk improvements for Project 08-043, Slant Streets Area Phase II. (memo) (Doug Harby) (Referred to committee: 5/11/09) 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 Slant Streets area, Project 08-043.

Review bids for curb and sidewalk improvement project 08-043, Slant Streets Phase II, award bid to lowest bidder and authorize return of bid bonds. (memo) (Doug Harby) (Referred to committee: 5/11/09) REMOVE FROM AGENDA

**Motion:** The committee recommends the City Council award the bid for Project 08-043, Curb and Sidewalk Improvements adjacent to properties in the Slant Streets Phase II area to Patterson Enterprises, Inc. for the sum of \$292,955.27 and authorize return of bid bonds.

Doug Harby, Construction Project Manager, stated that they had already been through the order process and sent it out to bid. They received four bids for the project and Patterson Enterprises was the low bidder. The bid was \$292,955.27 and the estimate was \$428,239. City Engineering recommended the committee pass the resolution to confirm the order and award the bid to Patterson Construction.

Mr. Childers made the motion to pass the resolution to confirm the order and award the bid and authorize the return of all bid bonds.

Mr. Jaffe asked for the final disposition of the triangular parcel. Mr. Harby stated that they have a finite amount of Community Transportation Enhancement Program (CTEP) funds, and they plan to use the excess CTEP amount on that property to assist with the cost. His final cost will probably be less than the estimate, but they don't know by how much exactly. They also had lots of compromise on boulevard locations and widths to save costs. All property owners had been issued a letter regarding the meeting and bid estimates, and staff had not received any responses.

The motion passed unanimously.

2. Authorize the Mayor to sign a Project Development Agreement with Johnson Controls to begin the preliminary and detailed development phases of an energy savings performance contract, with the City of Missoula, in an amount not to exceed \$51,363 (memo). – Regular Agenda (Jack Stucky) (Referred to Committee: 4/20/2009) REMOVE FROM AGENDA

**Motion:** The committee recommends the City Council authorize the Mayor to sign a Project Development Agreement with Johnson Controls to initiate the preliminary and detailed development phases of an energy savings performance contract, with the City of Missoula, for an amount not to exceed \$51,363.

Mr. Wiener stated that the legislature passed HB 98, which expands this method of funding to include State buildings. That indicated there was broad consensus that it was a good option.

Jack Stucky, Vehicle Maintenance Superintendent, stated that he had sent some information to the committee about other cities to address concerns in the previous discussion items.

Mr. Wilkins asked why Johnson Controls would not just see potential improvements and recommend changes without a contract, since they already service the City's facilities. Mr. Stucky replied that they have made recommendations and have done Capital Improvement Program (CIP) projects, but this is only way to fund the upgrades. There was a CIP project from two years ago that would have had a five-year payback, but the project was not funded. The HVAC system is ancient, and this contract presents a chance to increase energy efficiency and replace outlying assets. Johnson Controls is familiar with the City's HVAC systems, but there are also other areas in the contract, including swimming pools and electricity as well. Mr. Wilkins stated they didn't have funding to make improvements that were suggested before, and asked how the process got more funding to do it now plus the \$51,000 for the contract. Bruce Bender, Chief Administrative Officer, stated that the City's current contract with Johnson Controls was for maintenance and operation, and the proposed contract will get into enhancements and reengineering. The current contract is only for certain buildings, not all facilities, and the proposed one will examine the entire City. A part of state law allows municipalities to bond out this type of improvement if they go through a performance audit. Johnson Controls will calculate and guarantee the energy savings, and then the improvement will be bonded with the energy savings. Northwestern Energy is also looking at the contract, and may assist with the cost of the audit. If the City wants to use this tool to finance an upgrade, it must go through this process. It is different from a CIP project. Other upgrade or replacement projects have never included a thorough evaluation of the payback, just estimates. This is a more detailed review, and Johnson Controls guarantees the savings.

Mr. Hendrickson stated that he was in favor of saving energy and money and he just had an energy audit performed by Northwestern Energy, which also audits businesses and municipalities. He would like to know what portion they were doing. He also wanted to know what kind of bond it would be and whether they could guarantee that the savings would go directly to that, and not into the general fund. Mr. Bender stated that it would depend on how much money it would be. They could take a bond and run it through the CIP, allocating a stream of money removed from energy costs. There are a variety of ways to do it. That decision would happen later. They presume they will bond one of the projects and the contract amount will go into there. If they don't, they will have to budget for the contract.

Mr. Hendrickson made the motion to award the contract.

Mr. Hendrickson asked to be kept informed on the Northwestern Energy portions.

Mr. Jaffe asked whether there was a provision that Johnson Controls do the work. Jon Miller, Johnson Controls' local service account manager, stated that when they implement the project, they bid it out to local contractors. They do self-perform some things, but their intention is to provide a competitive look at the pricing. Mr. Jaffe stated that he had trouble reading the contract. It was hard to understand and he recommended they rework it. He asked what things in the contract the City would be refunded for. Mr. Miller stated that there was another person responsible for the contract, but with other projects with cities and counties, the attorneys typically work out the details on the contract to make sure the language is acceptable. If they present a preliminary project and it meets the criteria and has savings, but the City chooses not to do it, the City must pay for the contract. If they do not find a project, then the City will not be charged. The second portion is for the detailed analysis and final engineering design once a project has been selected. The final phase is where they put it all together and out to bid. Johnson Controls acts as the general contractor, and uses as many subcontractors as they can. The contract costs will get rolled into the project if the City chooses to go forward with it.

Ms. Walzer stated that if there was the potential to get carbon credits for saving energy, she wanted to be certain that Johnson Controls didn't capture those. Mr. Miller stated that the City could capture those, and was free to get as many credits as they could.

Ms. Mitchell asked what the departments were doing to reach the 10% savings the Council requested. She wanted to know how they had done so far. She also asked what other tools are out there to finance improvements. Mr. Bender stated that they typically would hire a heating/cooling engineer, do reviews, run it through the CIP process, and determine whether there were enough savings to warrant spending the money. This allows the City to bond the improvements instead of going through the CIP. The plans to meet the resolution for a 10% energy reduction are still in process, and will be in effect by 2011. The contract would be a part of how they get there. They are

working on the fuel aspect in all departments, and are counting on this contract to help with facilities. Ms. Mitchell asked whether they were seeing anything that showed that they had reduced energy costs yet. Mr. Stucky stated that it was down a little. They had installed some motion sensors and signs reminding people to turn lights off, but it was difficult to measure because of the duration and low temperatures this winter. Northwestern Energy did an electrical audit and didn't find many areas to improve on. Staff wanted Johnson Controls to come in because they were more familiar with the facilities than other contractors and they were the only performance contracting group that was interested in working with local contractors instead of bringing in people from out of state. It is hard to save on electrical and gas because they have tried to keep it down for years and it is difficult to measure when temperatures are fluctuating. Mr. Bender stated that departments are making efforts to reduce vehicle fuel and the Council would see those results.

Mr. Strohmaier asked about price and payment terms of contract, where it said the customer had no obligation to pay Johnson Controls the detail development payment if they enter into a performance contract within 90 calendar days. He asked if that meant they would not pay \$30,000 if they enter into the contract. Mr. Bender stated they would carry it forward into the next level of the contract and it would become part of the overall project costs. If they finish out the project, they will spend the \$50,000 in the contract.

The motion passed unanimously.

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

1. Authorize Public Works staff to offer a \$500 rebate or coupon toward the connection to sewer through December 31, 2009 for existing homes. ([memo](#)). ([Marilyn Marler](#)) ([SDF Ordinance Changes](#)) ([SDF Analysis](#)) (Returned from council floor: 5/4/09) **REMOVE FROM AGENDA**

**Motion: The committee recommends the City Council deny Public Works staff to offer the \$500 rebate our coupon toward connection of sewer through December 21,2009 for existing homes.**

Mr. Wiener asked how implementing the fee as structured for residential properties that have access to sewer line would impact the fund.

Steve King, Public Works Director stated that there were several pending cost obligations to the sewer fund. They are working on Third Street sewer from Grove to Tower. They are performing upgrades to the airport interceptor as a CIP project, and had been waiting for a County RSID at the wye, which is now going, and will create the necessity for the airport interceptor. A third project is the Miller Creek area, which is 1.5 million dollars total, half of which is for sewer development for upsizing for new development in the Miller Creek area. Money from the account goes out to extend growth of the utility which facilitates growth in the community.

Mr. Wiener asked what the legal concerns were. Mr. Nugent stated that there were two different statutes in Montana Code Annotated (MCA) 7-13-43-304 which talks about rates, rentals and charges which must be uniform for like services in all parts of the municipality. MCA 69 talks about changing rates and classifications and sets forth the process. The concerns were that it wasn't uniform because not everyone had the same opportunity. There is a process to go through to change classification rates and charges, so they would have to put the revision into a rate classification change. Mr. Wiener asked if changing the sewer rate would require a public hearing and a resolution. Mr. Nugent replied that they might have to amend the ordinance.

Mr. Wilkins stated that he was for the rebate at the start to get people connected to the sewer but that looking at the process gave him second thoughts. He asked if it would have to be everyone, not just the existing homes in the neighborhood. Mr. Bender stated that the City historically had recognized the difference between existing plumbed buildings and new ones because the existing homes are discharging into the groundwater and they wanted to differentiate encourage them to get on sewer. There is a problem with offering a rebate for only residential. If the lower rate is based on existing plumbed buildings, it has to be broad and applied to all users who are plumbed as a differentiation of classification. Mr. Wilkins asked whether anyone had figured out how much they would have to rebate people who already hooked up at the higher rate. Mr. King replied that he was unsure of the exact number, but it was less than \$20,000.

Mr. Wilkins made the motion to deny Public Works staff to offer the \$500 rebate our coupon toward connection of sewer through December 21, 2009 for existing homes.

Mr. Wiener clarified that Mr. Wilkins' motion would kill the proposal. To go in a different direction would probably require a public hearing.

Ms. Walzer left the meeting at 2:48 PM.

Ms. Marler stated that she had heard staff saying they distinguish between existing versus new, and they could also distinguish between places that have been paying semiannual bills that those that hadn't. Mr. Bender stated that they were two different types of fees. The semi-annual billing is for the operation and maintenance of the Wastewater Treatment Plant. The sewer development fee pays for their portion of the infrastructure that has already been built. There are two different fees for two different uses. Ms. Marler – stated that there were existing plumbed homes in the Rattlesnake but the sewer hasn't been there, so they haven't been paying sewer fees. They are not expanding pipe to the people in Ward 6, not expanding new pipe for them, and existing infrastructure should not pay for expansion. People who need sewer to come to them should pay more.

Mr. Bender stated that the semi-annual fee is not used to extend pipe, and those property owners will incur costs to get sewer there. When they hook up a house, they take up capacity, and it is a loss to everyone. Whether they have been paying the rates or not is not applicable. Ms. Marler stated that if they look at a map of houses already plumbed and paying sewer fees, it would show they were small homes in older neighborhoods. Mr. Bender stated that there is a loss to the system every time someone hooks up regardless of where they are located. New houses have been paying the fee since 2001. They recognize the benefit to homes connected because they are discharging into the groundwater, so there was an incentive until 2006 and then 2008. Ms. Marler stated that it was important to get the last 800 properties to connect, and that was the motivation for the last chance. Owners did not get enough notification about the fee increase. Mr. Bender stated the notice was a legitimate point, but if they extend the rate reduction, they must amend the ordinance like the last two times.

Mr. Childers stated that owners in the Rattlesnake SID will pay about \$5,000, and asked if they would pay the connection fee when they hook to sewer as well. Mr. King replied that they would. Mr. Childers stated they should keep that in mind that it was for purchasing facilities that already exist. Mr. King stated that they mentioned future projects, and that a big part of it was the buy-in to lift stations, pumps, and treatment facility. They have never paid for their share. Mr. Childers stated that the \$1,400 amount was set years ago, and by now it was probably worth more than that. He stated that it was a difficult decision.

Mr. Wiener stated that if they decided the rebate was ok in principal, it would require a more detailed financial analysis and a public hearing.

Mr. Jaffe stated that he was still in favor of the rebate and they could distinguish between existing and new. He asked offering the \$500 rebate or reducing the cost would create problem for commercial plumbed buildings. To interpret evenly applied fees as proportional was a leap. Mr. King stated that the fee was proportional to the scope of the project; an apartment complex would get a larger discount. Mr. Bender stated that the sewer development fee is based on the size of the water service line. Giving a \$500 flat fee discount would not recognize the increments; they would need to get an equal benefit.

Mr. Hendrickson stated that that he understood the rationale for the distinction between existing and new, and agreed that it would be nice to get everyone on sewer, but that the distinction was discriminatory and it should be everyone no one at all.

Mr. Wilkins stated that he wanted the incentive to hook up, but they had to be fair about it, and it could end up costing too much. Making it equal would result in more than 800 homes.

Mr. Childers stated that it was like the impact fee argument. They know the money has to be paid, but the question is who pays. They can transfer money from sewer use fees into the fund, but that might increase sewer use fees to all users in the system. He would support the motion.

Ms. Mitchell asked if it was fiscally irresponsible to make an exception and then extend it to so many people. Even though 800 homes aren't on the sewer system but they pay the fee to have that option, they still get a benefit because everyone else is on the system.

Ms. Mitchell called the question. The motion to end debate carried unanimously.

Ryan Hickey, the constituent who initiated the request, stated that he missed the fee cutoff date by a month and was surprised by the \$1,400 fee. He stated that he would like to hook to sewer but raising the fee from \$300 to \$1400 seemed excessive. He was disappointed to see them shoot down the request and hoped they would take a more critical look at it.

The motion to deny passed with six ayes (Wilkins, Childers, Mitchell, Haines, Hendrickson, Strohmaier) and two nays (Jaffe, Wiener).

Ms. Rye stated that in 2006 they gave a break on fees for houses hooking up in Lincolnwood, they had to have a fairness issue all over, so they did it for industrial/commercial. She wanted to know at what level those were reduced.

2. Information item to present options for creating SID for Rattlesnake Valley Sewer Collection. (memo) (Presentation) (Steve King) (Referred to committee: 5/11/09) **REMOVE FROM AGENDA**

Mr. King stated that they had a unique opportunity in the Rattlesnake to use stimulus funds to assist with sewer installation. Several property owners have requested sewer and there are many stories of failing septic systems. Now there is an opportunity to do it in a cooperative and fiscally responsible way. They can use economic stimulus funds to keep costs down for property owners. Property owners will have the ability to opt-out, which is brand new. If owners opt out of the project, they will pay their share later, probably at a higher cost, and the economic stimulus allows the City to bridge the property. Ultimately, a property owner will have to connect through a septic system failure or sale of the property. Opting out would bring temporary relief only.

The original SID 528 was approved by council in 2000 and 2002 and would have completed sewer in the Rattlesnake valley. One area protested and was removed, and other areas were created. Other areas petitioned for sewer and it has been brought in. The remaining parcels are incomplete and constitute the potential new SID 544. They are in the Duncan Drive area, Mountain View, Lolo Street, Evan Kelly, and portions of Rattlesnake Drive and Raymond. If it is completed, the majority of the Rattlesnake will have sewer available. They have \$750,000 of economic stimulus money in a revolving fund and a short timeline to spend it. The total City contribution is 1.8 million dollars in grants and loans, which will hold costs to the original 2003 rate for property owners. The amount of shortfall will vary depending on how many owners opt out. They will allow 21 days for property owners to opt out and would like to bring a public hearing in July, with a bid in August and construction to begin in September.

They will send a certified mail to affected properties and allow them to opt-out. Anyone opting out will face financial consequences later, as they would have to pay for a stub and dig into the street, so would probably pay several thousand more later. Also, they would have to finance the improvement on their own, not at the 3.75% SID rate.

Mr. Hendrickson asked how much the SID would cost per household. Mr. King stated that it ranges from approximately \$4,000 to \$6,000 for the main and stub depending on the size and taxable value. Mr. Hendrickson asked how much it would cost later. Mr. King stated it would increase.

Mr. Strohmaier stated that opt-out option was nice and was the best chance in their lifetimes to get hook-ups at an affordable price. The prices will inflate later. Community organizers in the Rattlesnake were knocking on doors and garnering support, especially people with failing septic systems.

Mr. Childers asked where the money came from to cover people who opt-outs. Mr. Bender stated that the City would supplement it with sewer funds, and could manage to cover about \$400,000, which would be paid back in the future when they hook up. There is a chance that costs could come in lower than estimates. Mr. Childers asked the contributions from other agencies would spread to other people. Mr. Bender replied that it was only legal to offer the opt-out if didn't affect the SID for everyone else. For every house that drops out, the City will subsidize it using sewer funds, and if and when they connect, the City will collect that. The SID cost will not increase with time, but the inflationary costs of tearing up the street to install a stub and connect will go up. Mr. Childers asked who would keep track of who owns what. Mr. King stated that they have records and file a notice at the clerk and recorder's office for connections, as well as internal tracking. Mr. Childers stated that he would like that written down so he could follow it.

Mr. Haines stated that they had the same thing in Miller Creek, and the hookup fee went up every year; they would never get it any cheaper. They had a requirement that once 50% of homes were hooked up, all the rest of them had to.

Mr. Bender stated that the SID interest rate of 3.75% was excellent, and it would pay for the cost of the main and stub-out assessment for a 20-year term.

Maxine Lane stated that she had been there a lot in support of sewer, and was very unhappy with her septic. She was afraid she would be told she would have to replace the system and stated that the City/County Health Department can only give her a temporary permit if they know she will get an SID on the sewer.

Mr. Jaffe asked why it was packaged as an opt-out instead of a deferral. He stated he would rather see it everywhere and offer a 100% deferral, instead of constantly digging everything up later. Mr. King stated that he shared the concern about the neighborhood having the burden of digging later. The reality was that they wanted there to be a clear motivation to participate because they don't have the financial ability to cover more than a 20% opt-out. They wanted it to be highly motivational to be in rather than out of the SID. Mr. Jaffe stated that there would be more motivation to be in if they included everyone and deferred payment. Mr. King stated that allowing people to opt out of the SID would allow them to leave before they protested and stopped the project.

Mr. Wilkins stated that stub-outs were not that expensive and better than tearing up the street later. Mr. Bender stated that was a valid point, but they had been trying to get the project done since 2001 and it had been in litigation, so they would like to be able to remove those who feel strongly opposed. Not putting in stub-outs is a better option than not having the project built. Stubs cost about \$1,800 each. If the bids come in low and they only have a few properties, installing stubs for the opt-outs could be possibility, but the City would have to come up with the money initially.

Mr. Haines asked if they could call it deferral instead of an opt-out, because the owners will have to connect eventually. If the City has to finance stub-outs until people hook up, that would be a problem to solve.

Mr. Hendrickson wanted to make sure they kept the stub option open for opt-out properties, rather than tearing up the street later.

Mr. Strohmaier asked for clarification of the opt-out process. Mr. King stated there would be extensive opportunity for public participation. The letter gives them three weeks to consider the opt-out, then a resolution of intention is made, followed by a formal notice, then a public hearing. The process could take six to eight weeks.

#### **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. Consider restructuring the city's Sewer Loan Program along the lines of the recently approved change to the Sidewalk & Curb Loan Fund.—Regular Agenda ([Chapter 3.16 – Sidewalk & Curb Loan](#)) ([Chapter 3.18 Sewer Loan](#)) ([Ordinance 3344](#)) (Ed Childers) (Referred to committee: 06/26/06)
3. Discussion item to consider vacating portions of an 1896 petition County road on the westerly side of Miller Creek Road. ([memo](#)) (Monte Sipe) (Referred to committee: 10/6/08)
4. Discussion item regarding complete streets. ([memo](#)) (Jason Wiener) (Referred to committee: 10/27/08)
5. Information item to present the City's Master Sidewalk Plan. ([memo](#))—Regular Agenda (Doug Harby) (Referred to committee: 01/12/09)
6. Authorize speed limits ([memo](#)) ([Speed Limits Memo – Steve King](#)) ([Presentation Maps](#)).—Regular Agenda (Ed Childers) (Referred to committee: 12/08/08)
7. Review the Rattlesnake Valley traffic engineering study. ([memo](#)) (Jason Wiener) (Referred to committee: 8/25/08)
8. Change the speed limit on George Elmer Drive to 30 mph throughout. ([memo](#)) (Bob Jaffe)
9. Discuss CS Porter School Crossing issue and develop approaches to remediate ([memo](#)).—Regular Agenda (Ed Childers) (Referred to committee: 02/23/09)
10. Discussion of local, city-sponsored energy production ([memo](#)). (Ed Childers) (Referred to committee: 12/22/08)
11. [Resolution](#) of intention to close and vacate certain portions of Miller Creek Road and Lower Miller Creek Road generally located between Briggs and the "Wye". ([Resolution A](#)) ([Resolution B](#)) ([Staff Report](#)) ([map-6 MB file size](#)) ([memo](#)) ([PW](#)) (Returned from Council floor: 4/13/09)

#### **V. ADJOURNMENT**

Respectfully Submitted,

Jessica S. Miller  
Office Manager  
City Public Works Department