

PUBLIC WORKS COMMITTEE REPORT

December 7, 2011 1:05 PM

City Council Chambers

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

Members Absent: Jon Wilkins

Others Present: Steve King, Kevin Slovarp, Bruce Bender, Phil Smith, Stacy Rye, Bob Wachtel, Alex Taft, John Wolverton

I. ADMINISTRATIVE BUSINESS

- A. Approval of the minutes of – November 30, 2011 Approved as submitted
- B. Announcements – Steve King, City Public Works Director, provided an update to the committee on school speed zones. Public Works staff met with the Administration Leadership Team (ALT) to discuss the ability to establish double fines in school zones. They talked with the City courts, the Police Department, the City Attorney, Public Works and the Administration. One of the complications is that double fines are State law and is not in our City ordinance; the State law carries a surcharge that often exceeds the City fines. The Administration Leadership Team (ALT) recommends drafting a City ordinance with the equivalence of the State law that would allow the police to site the drivers with a double fine. Staff will refer that as an ordinance amendment in Title 10 under Speed Limits after the first of the year.

He also announced that Dennis Murphy, Utility Coordinator, will be retiring after thirty seven years with the City. Public Works is consolidating the position of utility coordinator with the project coordinator and Gregg Wood the current Project Coordinator will be assuming both the utility and project responsibilities.

C. Public Comment on Non-Agenda items – Bob Wachtel, Chair of the Bicycle and Pedestrian Advisory Board, complimented the Street Department on snow plowing Brooks Street including the bike lanes. One issue he brought to the council's attention is that both the Higgins Street bridge and the Orange Street bridge bike lanes have snow in them and are quite treacherous to try to bike across them. Also the link on the "I want to page" for the form to report unclear sidewalks is no longer on the City Web site and he requested the link be re-established.

II. REGULAR AGENDA ITEMS

1. Approve resolution authorizing the Mayor to sign project agreements with Montana Department of Transportation for implementation of the Russell Street Project. ([memo](#)) ---Regular Agenda (Steve King) (Referred to committee: 12/05/11) (**HELD IN COMMITTEE**)

Steve King, City Public Works Director, stated that this referral is an action item but did not anticipate any action to be taken today. He wanted to present the resolution and a draft of the City-State Agreement for discussion at future meetings. He began with a brief summary of the resolution stating that it would authorize the Mayor to sign the Project Development Agreement and all related agreements with the Montana Department of Transportation for implementation of the Russell Street Project contingent upon City Attorney and the Department of Transportation's concurrence. The resolution outlines the rules, responsibilities for project implementation, public involvement, acknowledges the environmental documents are completed; and noted that this project is in the Long Range Plan and includes the Record of Decision (ROD) and the selected Alternative 4 for Russell Street.

A draft of the City-State Agreement would replace the February 7, 2000 Agreement that has been in force for the last eleven years. This Agreement covers the scope of the project, the development, the surveying, the site, plans, etc. In referencing some of the highlights of the draft Agreement he explained that

- Section 3-c, outlines the City's partnership with MDT during the public involvement process for project development and construction.
- Section 4, MDT section with their project development and construction responsibilities, responsibilities on bidding and administering the project, public involvement, indemnification and utility coordination.
- Section 5, describes what the agreement terms are.
- Section 6, is the consultant selection in accordance with MDT's Consultant Services Manual (2010). The City would have one vote on the consultant selection. The final selection would be approved by both the City and MDT at the Consultant Selection Board meeting.
- Section 7, the Technical Design Requirements would be in accordance with MDT's Project Development Procedures and Design Manuals.
- Section 8, explains the project funding and the various funding sources. Russell Street was prioritized as number one for federal and state funds through the Surface Transportation Program (STP). The City is responsible for the federally required local match on the Surface Transportation Program Enhancement (STPE) funds. This is the one part of the Agreement that has local money, all the rest of the Agreement is federal aid and State matching funds.
- Section 9, the maintenance responsibilities for Russell Street may change and those provisions will be resolved in future agreements.
- Section 10, has guidelines that explain how disagreements or disputes may be resolved using a Dispute Resolution Committee (DRC) made up of the City Public Works Director, a FHWA Missoula District Representative and a MDT Missoula District Administrator. The DRC would present a finding within five working days.
- Section 14, states that this City-State Agreement would replace the original February 7, 2000 Agreement.

Some key issues are why this project would be recommended by City staff to be a State administered project and why we want the State involved. We believe the project will flow smoother and quicker with the State in a lead position because this is a very complex project and major federal money is involved with tens of millions of dollars on the table. We would like any type of risk associated with this amount of money to be the State's risk not local risk, the City would be a partner throughout the project but if there is a failure with this process we wouldn't want the City to be liable for mitigation of that with that significant amount of money involved, so this is a financial risk management recommendation as well. Another key component to why the State would be recommended is they have the specialty of the work, this is very specialized work involving State water, State bridge construction, etc., they have the expertise for this that the City does not. Also really important is public involvement, we have had successful public involvement in recent collaborations with MDT on the 5th/6th/ Arthur Project. The resolution on the approval process allows the Mayor to sign this and subsequent agreements. These are some of the highlights he brought to the Council's attention.

Ed Childers said public input to the actual design was in place for the Orange Street Bridge Project and wanted to know if this Agreement had that provision in it.

Steve King replied that this City-State Agreement has public participation process included.

Stacy Rye stated the City-State Agreement makes the State the lead on the entire project and the City a partner. She feels this should be Held in Committee and discussed at future Public Works Committee meetings. Her first reaction is to not include the State as the lead because we know what we want and we should be the lead, there is no local control and public involvement is limited to amenities like landscaping or bus stop turnouts, etc. Public involvement should be broader.

Steve King replied that he agrees this needs a deliberate process and they were not proposing this be done in one day, that it does require more discussion.

Bob Jaffe stated his concerns also include more control for the City in the design; and the selection process for the consultant should have 50% of the City's input for choosing the consultant. There should be some type of chain of command, not leave the City on the side line but provide some type of controlling input not just for the final say but in the whole process. Obviously the construction would require specialized expertise. We need to resolve the definition of "the City", who is that talking about, he would like clarification on what part the Council has, the Mayor, etc.

Bruce Bender, Chief Administrative Officer mentioned that the city of Whitefish had a similar project and they developed a Project Team that included representatives from the State, the Mayor's office and the City Council. They routinely met, made decisions and moved forward; this involvement process of the Project Team might be something to consider.

Jason Wiener expressed agreement with something like a Project Team, not a Dispute Resolution Committee but a partnership with representation from both sides to resolve disputes. He would also like equal representation included in the resolution for a consultant selection committee with six members, to include an appointment by the Mayor and two people from the Council to create an equal partnership. He thinks there should be public input in relation to the State, not have the State bring a completed final design for approval but offer and solicit input, listen, and then investigate and present with a demonstrated model. He feels uneasy with the Mayor being authorized to unilaterally amend the Agreement without Council agreement. He has not read the MDT design manual and doesn't know if it agrees with the City's regulations or are there points of difference and should this be a topic for future discussion.

Bruce Bender reiterated that the Project Team he mentioned would be how you would get approval and representation; they become a working team and make the decisions. Historically the City Council has not been involved in the intimacies of the design.

Stacy Rye stated that asking the Council to give up their power and only award the bid is a recipe for disaster. You could come forward with a project that is completed and then ask the Council for approval of the bid award and then Council could refuse to award the bid. She feels there needs to be two Council members at the table throughout the process and they would report back to the Council periodically and the Council would make approvals.

Steve King explained that there are ways to build incremental approvals as the project moves forward and having Council participation in this is important too. Additional Council involvement includes Council representation on the Metropolitan Planning Organization (MPO) on the policy making committee that funds the project, and that funding through the Transportation Improvement Program is certainly a democratic process. Continuing Council participation would include the Council's input in how to fund the latter stages of this project because Federal aid will not pay for the entire project and that funding is a huge component of this Agreement.

Public Comment:

John Wolverton a member of the Bike Walk Alliance of Missoula and owner of two households slated for destruction under this project expressed his appreciation for the diligence from the committee and Ward Three representatives about the public process and having that be robust and making sure the community and the City have good representation.

Bob Wachtel, Chair of the Bicycle Pedestrian Advisory Board, initially looked at the document on behalf of the Board members and was pleased to see the inclusion of explicit requirement for continuing public involvement. Some of his concerns were the lack of specific references to the Complete Streets Resolution 7473 or the 2011 Missoula Active Transportation Plan. While the project description paragraph does site conformance with various documents including City and AASHTO Urban standards, the lack of specific reference does concern him. Another issue is the difference between the City's acknowledgement of compliance with laws in paragraph 3e and MDT's acknowledgement in

paragraph 4f. The City will adhere to all "local, state and federal laws"; and MDT will comply with all "state and federal laws"; doesn't MDT have to comply with local laws when operating in Missoula? We need to move this project forward because Russell Street is a major transportation corridor for Missoula.

Alex Taft commented that we are out of the planning stage on this project and are into the design and construction. The Transportation Policy Coordinating Committee (TPCC) role would only be if they did not like the design they could un-fund the project and he feels this is not likely. In order to have a cooperative process that moves forward you need community involvement, and an equal partnership between MDT and the City. He feels equal representation in choosing a consultant is important. He likes the idea of a Project Team to oversee this project as it moves forward but at the end of the process the Mayor and Council should have final approval. We hope to move this project forward and start construction soon.

Jason Wiener said the referral would be Held in Committee and discussed at the next Public Works Committee meeting on December 14, 2011.

III. 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. Resolution to change the speed limit on Reserve Street between Brooks and 39th Street. ([memo](#))—Regular Agenda (Wayne Gravatt) (Referred to committee: 01/24/11)
5. Approve the agreement for consultant services with Eli & Associates, Inc. on Project 10-034 England Boulevard right turn lane improvements. ([memo](#)) - Regular Agenda (Kevin Slovarp) (Referred to committee 05/16/2011)
6. Infrastructure condition inventory and maintenance requirements. ([memo](#))—Regular Agenda (Ed Childers) (Referred to committee: 07/11/11)
7. Discuss the timing of various traffic lights around the city. ([memo](#))—Regular Agenda (Bob Jaffe) (Referred to committee: 09/26/2011)

IV. ADJOURNMENT

The meeting adjourned at 1:55 PM

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