

PUBLIC WORKS COMMITTEE REPORT
June 17, 2009, 1:50 PM
City Council Chambers

Members Present: Dick Haines, Bob Jaffe, Renee Mitchell, Pam Walzer (Acting Chair), Jon Wilkins

Members Absent: Jason Wiener, Ed Childers, John Hendrickson, Dave Strohmaier

Others Present: Jack Stucky, Doug Harby, Kevin Slovarp, Gregg Wood, Monte Sipe, Steve King, Jim Hausauer, Lisa Hendrix, Karen Kaley, Gail Chandler, Dave Prescott

I. ADMINISTRATIVE BUSINESS

- A. Approve minutes of June 10, 2009 as submitted or corrected – Approved as submitted.
- B. Announcements – Gregg Wood, Project Development Coordinator, stated that the construction on the Higgins/Hill/Beckwith roundabout began today.
- C. Public Comment on Non-Agenda items – Mr. Wilkins stated that he was speaking to a constituent who was upset at not being notified that business license fees had increased. He stated that he would like people to be notified of increases in fees if they have an existing business license.

II. CONSENT AGENDA ITEMS

1. Approve Change Order Number 1 to Embe Contracting, Inc.'s existing construction contract for West Reserve Phase 3 – Grove and South 3rd Street sewer main extension project. (Steve King) (memo).— Regular Agenda (Gregg Wood) (Referred to committee: 06/15/09) REMOVE FROM AGENDA

Motion: The committee recommends the City Council approve and authorize the Mayor to sign Change Order Number 1 to Embe Contracting, Inc.'s existing construction contract for West Reserve Phase 3.

Steve King stated that this is the first and final change order for the sewer project on 3rd Street, which began in 2007 and was completed in the Fall of 2008. The change order has three components. The first is \$122,938.27 for changes in the quantity of work, such as more pipe length. These were unit increases beyond what was on the original bid. The project was 105 days beyond what was allotted in the contract, resulting in a per day charge to the contractor of \$500, totaling \$52,500 in liquidated damages against Embe. The contractor filed a claim against the City for additional water and changed soil conditions for \$660,000. Both parties met with a professional mediator and came to terms to settle the claim for \$395,000, with no acknowledgement of wrong on either side. The issue was threatened to be a lawsuit. It was a difficult negotiation for the mediator. The City's choice was to deny the claim and face potential litigation, which would have an expense possibly in excess of a million dollars. The project was over 4 million dollars, and the final change order totals \$465,438.27. The original project bid had three bidders, and the second lowest bidder was \$385,000 more than Embe, so the settlement claim very close to what second low-bidder would have been. The change order will bring closeout to the project and Public Works recommends approval.

Mr. Jaffe made the motion.

Mr. Jaffe stated that he had some problems with the settlement and asked whether the change quantities and water problems were due to the contractor not being on schedule. Mr. King stated that the problems with the water was in the contract, but the quantity of water was not in the contract and was unanticipated. Mr. Jaffe stated that he was baffled at how that was the City's problem, as those conditions were the contractors' due diligence. He thought it was unfortunate it went that way. The City has an expense of extra money for the engineering firm extra, which was supposed to be equal to the liquidated damages. Mr. King stated there would be an additional discussion for the extra engineering costs. In previous information items presented to the committee, the decision was made to wait until the end of the project and bring back a contract amendment with the final charges. There will be a separate item for that contract amendment. The

liquidated damages did not cover support for the preparation for the settlement agreement. This amendment will be paid for from the sewer development funds.

Mr. Wilkins stated staff did a good job trying to mediate the issue.

Ms. Mitchell asked if whoever the bid was awarded to would have had a water problem. Mr. King stated that the expense was a real expense to deal with water.

The motion passed unanimously.

2. Review proposed curb and sidewalk improvement project and pass a Resolution to Order the improvements which also directs that notice be given to all affected property owners. (Doug Harby) ([memo](#)).—Regular Agenda (Doug Harby) (Referred to committee: 06/15/09) **REMOVE FROM AGENDA**

Motion: The committee recommends the City Council adopt the resolution to order curb and sidewalk improvements adjacent to properties in the Stephens and McDonald Avenue area, Project 08-008.

Doug Harby, Construction Project Coordinator, stated that the project was identified in studies for Safe Routes to Schools (SRTS). A crossing for SRTS is mid-block on McDonald Street between Stevens and Russell. The sidewalks on Stephens and McDonald have gaps and this project will fill those gaps. Most properties affected are multi-family. This will complete the sidewalk system from 34th to McDonald and create a safe route to the park and to the school.

Mr. Wilkins asked whether there had been any protests. Mr. Harby stated that one lot is a flag lot with only a driveway coming on to the road and the owner wanted to know why he had to participate. There were some modifications to that. Kids make trails on the lawns where there are no sidewalks and one property owner shovels his lawn in winter to accommodate the pedestrian traffic. There have been no formal protests. The curbs are already in place.

Mr. Wilkins made the motion to adopt the resolution.

The motion passed unanimously.

3. Approve a resolution declaring certain City of Missoula Property as Surplus and Authorizing its disposal. (Jack Stucky) ([memo](#)).—Regular Agenda (Jack Stucky) (Referred to committee: 06/15/09) **REMOVE FROM AGENDA**

Motion: The committee recommends the City Council approve a resolution declaring certain City of Missoula Property as Surplus and Authorizing its disposal.

Jack Stucky, Vehicle Maintenance Superintendant, requested approval to declare the surplus property. Renee Mitchell asked if this was the same equipment that would be auctioned tonight. Mr. Stucky stated that these items did not make it onto the list in time for the current auction.

Mr. Wilkins made the motion.

The motion passed unanimously.

III. REGULAR 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 08-004. (Doug Harby) ([memo](#)).—Regular Agenda (Doug Harby) (Referred to committee: 06/15/09) **REMOVE FROM AGENDA**

Motion: The committee recommends the City Council forward to the floor without recommendation the resolution to confirm final ordering of curb and sidewalk improvements adjacent to properties in the Lolo St. – Missoula Ave. to Rattlesnake Dr. area, Project 08-004.

Doug Harby, Construction Project Manager, stated that this project had been ordered by Council in April. Monte Sipe, Construction Project Coordinator, stated that this was the resolution to confirm the order. After the resolution to order, property owners received notice and had the option to hire their own contractor and be removed from the project. The resolution to confirm the order drops anyone who did not want to participate in the City project and instead hired their own contractor.

Mr. Wilkins asked if anyone had dropped out, and Mr. Harby answered they had not.

Ms. Mitchell stated that building sidewalks on both sides of the street was excessive and beyond the scope of what she wanted to do. She stated she would not support the resolution.

Bob Jaffe made the motion to approve the resolution to confirm the order.

Karen Kaley of 903 Lolo Street stated that she was for the sidewalks, but was disappointed in the process and scope of the project. The project did not fit their neighborhood and the state of the economy makes it a bad project for citizens and the City budget. The timing is bad. A sidewalk on one side of a smaller width would have solved the problems. She stated they were taking advantage of contractors who have been out of work for so long. She wanted Missoulians to know that there would be sidewalks coming to their neighborhood and wanted citizens to be involved far in advance so they would have input into the design. Citizens should know they're tearing up the current five-foot sidewalks to put in seven-foot sidewalks in some places. She didn't know why it was ok to have a sidewalk on one side of the street on the West side of the bridge but has to be on both sides on the east side. Building sidewalks piecemeal doesn't work. There should be a master plan and spread the burden around. She thanked those who voted against it and was disappointed that the Mayor didn't walk the street with her as she requested.

Mr. Wilkins stated that he would vote against the item and reserve his vote for Monday night to give citizens one more chance to voice their opinions.

Mr. Haines stated that they should find a way to pay for sidewalks other than charging citizens.

Mr. Jaffe made the motion to recommend the Council adopt the resolution to confirm the order.

Mr. Jaffe stated that issues were raised to come up with alternative ways to accomplish projects and ways of spreading costs to the neighborhood, and they have met roadblocks. He was interested in finding ways to do things differently. Street maintenance districts would add taxes and revenue that could go toward relief for sidewalk projects. Charging people \$25 a year would have more justice than charging individual homeowners.

Mr. Haines stated he was impressed by the effort on Miller Creek Road to reduce costs and impacts, and that Lolo Street was a good place to do that as well.

Ms. Walzer stated that staff had done a good job already squeezing the project down and re-engineering it. There was a lot of heavy use in the area.

Mr. Wilkins stated they had done a fine job on the street to reduce costs. He felt the City should be taking advantage of low construction costs. The street is used by lots of people up the Rattlesnake, and sidewalks are needed. He wanted to have another opportunity to speak, so he would pass on the motion.

Mr. Jaffe stated that if an item passes unanimously, it doesn't necessarily have to go on the consent agenda.

The motion tied with two ayes (Walzer, Jaffe) to nays (Haines, Mitchell) and one pass (Wilkins).

2. Review bids for curb and sidewalk improvement Project 08-004, award bid to lowest responsible bidder and authorize return of bid bonds. (Doug Harby) ([memo](#)).—Regular Agenda (Doug Harby) (Referred to committee: 06/15/09) **REMOVE FROM AGENDA**

Motion: The committee recommends the City Council forward to the floor without recommendation the bid award for Project 08-004, Curb and Sidewalk Improvements adjacent to properties in the Lolo

Street – Missoula Ave. to Rattlesnake Dr. area to AAA Construction for the sum of \$154,249.59 and authorize return of bid bonds.

Mr. Harby stated that the City and utility rate payers were subsidizing 70% of the project. There were six bidders, and AAA was the low bidder. The original project estimate was \$210,000 and was reduced to \$190,000 with design changes. The bid came in at \$154,29.59, which reduces assessments considerably.

Mr. Wilkins asked how much a \$9,000 assessment added to taxes each year if the property owners chose the 20-year assessment. Mr. Harby stated that the average monthly cost per thousand dollars was \$9. That is a declining payment and an estimate based on previous bond sales.

Mr. Jaffe made the motion to award the bid and return bid bonds.

The motion tied with two ayes (Walzer, Jaffe) to nays (Haines, Mitchell) and one pass (Wilkins).

3. Adopt a resolution reducing speeds on Reserve Street near CS Porter Middle School. (Steve King) (memo).—Regular Agenda (Steve King) (Referred to committee: 06/15/09) **REMOVE FROM AGENDA**

Motion: The committee recommends the City Council adopt a Resolution reducing speeds on Reserve Street near CS Porter Middle School.

Mr. King stated that Mayor Engen requested a speed study. The Montana Department of Transportation (MDT) speed study concluded that a speed zone could be placed adjacent to CS Porter School. The committee recommended a speed zone 30 mph 24 hours per day, 7 days per week. Staff talked about activity, overall user safety, and the accident history on that portion of the road, which sees 25,000 cars per day. Drivers look for cues to signal the need for reduced speeds and a 15 mph speed drop would not be perceived by many drivers, resulting in differential operating speeds and the potential for rear-end accidents. Staff recommended a speed zone during the highest activity, 35 mph, from 7:00 AM to 5:00 PM. The differential limit would be highlighted with flashing lights Monday through Friday. The state study showed only one accident in three years, a rear-end accident, and no pedestrian or bike accidents. It is not a high crash area and they don't want it to become one.

Jim Hausauer stated that he shared the concern about speed reduction but asked them to hold to the 30 mph limit, listen to school officials, and consider adding more hours in the evenings. The State says a 400 foot limit is as far as they can go with the speed zone. He wanted to push the State to study the area further, because the first page of the speed study shows the average speed was 42 mph on that stretch, so the speed limit on the road should be 40 mph. They should also increase the crossing time at the light.

Gail Chandler, Principal at CS Porter, stated that she was concerned about staff's recommendations. She did not think that a 30 mph speed limit 24 hours per day was asking for too much. The 400 foot distance placed the edges of the zone near South and Mount. She stated that she did not want a child to have to get injured for people to wake up to the danger.

Lisa Hendrix, Assistant Principal at CS Porter, stated that in the speed study, the location of speed station 3 recorded the fastest speed was 44 mph in the southbound lane. The school is only 15 feet from the curb. She asked the committee to consider moving the zone beyond the 400 foot distance. She requested that the length of time for the green light at the crossing be increased because it is not long enough when students are in a large congregation in the afternoons.

Jim Hausauer stated that the 24-hour speed limit may not be as much of a benefit as a variable time, because they would lose the bouncing balls in the speed zone.

Kevin Slovarp, City Engineer, stated that the MDT speed study specified the speed zone could be 400 feet from either the crosswalk or the property boundary, which was all that the law allowed. Ms. Walzer asked where the 400 feet would put the speed zone. Mr. Slovarp replied that it would be just north of South Avenue on the south side and between Mount and Strand on the north side.

Mr. Jaffe asked where the signs would go and whether there was discretion in their placement. Mr. King stated that if the limit was for a specified time, the State would install flashers and the location would be

determined in collaboration with MDT. Advanced warning would be at the State's discretion. A 24-hour speed zone would not have flashers, and would be located at the 400 foot boundary. Mr. Jaffe asked if the timing of the green light was being investigated. Mr. King stated that the crossing time had recently been evaluated, and MDT did add time to the crossing. There has been advocacy for more time since the change was made.

Mr. Jaffe stated that he wanted to support the 7:00 AM to 5:00 PM time period, but at 30 mph. He asked what the drop in speed was in Lolo. Mr. King replied that it went from 35 mph to 25 mph for a limited time period.

Ms. Walzer asked if it was possible for that section of road to be 24 hours at 35 mph and 30 mph with a bouncing ball during school hours. Mr. King stated that he would have to ask MDT. He recommended that the Council come together on an action and he would bring it to the state for their approval.

Mr. Wilkins stated that 400 feet was only a short distance on the south side to South Avenue, and asked if they could recommend the location to the State.

Ms. Walzer stated they could post the warnings ahead of South and at Mount that there was reduced speed ahead.

Ms. Walzer stated she would like the speed zone to be 35 mph regularly and 30 mph hours from 7:00 AM to 5:00 PM during days of school operation. She would also like to have it start at South Avenue, but they could amend that on the floor.

Mr. Jaffe made the motion.

Ms. Mitchell stated that she didn't have a problem slowing down on Reserve Street, especially at South Avenue, but to set the speed at one level and then drop it at certain times is confusing. She would like them to choose either 30 or 35 mph, not a hybrid.

The motion carried with one nay (Mitchell).

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. Discussion of local, city-sponsored energy production ([memo](#)). (Ed Childers) (Referred to committee: 12/22/08)
7. Authorize speed limits ([memo](#)) ([Speed Limits Memo – Steve King](#)) ([Presentation Maps](#)).—Regular Agenda (Ed Childers) (Referred to committee: 12/08/08)
8. Change the speed limit on George Elmer Drive to 30 mph throughout. ([memo](#)) (Bob Jaffe)
9. \$500 rebate or coupon toward connection of sewer through December 31, 2009 for existing homes. ([memo](#)) ([SDF Ordinance Changes](#)) ([SDF Analysis](#)) (Returned from Council floor: 05/18/2009)
10. [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