

**BUDGET COMMITTEE OF THE WHOLE
CITY COUNCIL CHAMBERS
140 WEST PINE STREET
MISSOULA MONTANA
October 13, 2010, 11:05am**

Members present: Ed Childers, President; Stacy Rye, Renee Mitchell; Pam Walzer; Jason Wiener; Dick Haines; Lyn Hellegaard; Roy Housemen; and Jon Wilkins; Bob Jaffe.

Members absent: Marilyn Marler; Dave Strohmaier, Roy Houseman.

Others present: Bruce Bender, Roy Koegen & Mary Edwards by telephone, Gary Bakke, John Hendrickson, Brentt Ramharter, Dee Andersen.

I. Administrative Business

A. Approve committee minutes dated: to be approved at a later date.

B. **Public Comment on items not listed on the agenda-None**

II. Regular Agenda

A. Resolutions amending protest tallies for Road District 1 and Park District 1. ([memo](#)) –Regular Agenda (Bruce Bender) (Referred to committee: 09/27/2010) **REMOVE FROM AGENDA**

Motion: The committee recommends the City Council adopt a [resolution](#) of the City Council of the City of Missoula, Montana, amending resolution no. 7563 which created the city of Missoula Road District Number 1 and levied and assessed the lots and parcels within such district for the costs of certain services and improvements, to reflect the total number of written protests received regarding the creation of such district; and providing for other matters properly relating thereto.

Motion: The committee recommends the City Council adopt a [resolution](#) of the City Council of the City of Missoula, Montana, amending resolution no. 7564 which created the city of Missoula Park District Number 1 and levied and assessed the lots and parcels within such district for the costs of certain services and improvements, to reflect the total number of written protests received regarding the creation of such district; and providing for other matters properly relating thereto.

- ✓ [Special Districts Final Protests](#)
- ✓ [Park District Protest Tally Resolution](#)-draft dated 10/12/2010
- ✓ [Road District Protest Tally Resolution](#)-draft dated 10/12/2010
- ✓ [FY11 Adopted Budget](#)

Roy Koegen, Koegen- Edwards, said the resolutions were amended to include the additional protests. He said in the last discussion 2 weeks ago, there were additional protests that were discovered but not counted in the original calculation. This resolution was amended to add the additional protests and recalculate the percentage of the protests. He also explained the reason for the changes made to page 3, paragraph 7. He said even if all the property owned by governmental agencies were counted as if they were assessed and had a right to protest, the protest level is still only at 1/5 away from what it should be to stop the districts.

Lynn Hellegaard asked why the word *all* is stricken out on page 2, and why does paragraph 4 on page 3, state that “*the Creation Resolution did not propose to assess property owned by a governmental entity*”. She said that is untrue and the original resolution did propose to assess all properties. She questioned the percentages quoted in the resolution and asked if they were obtained before or after the Mayor had been out negotiating with the school districts and the County.

Mary Edwards, Koegen- Edwards, said in response to page 2, the reason for striking the word *all*, is because we are setting forth the history of what happened. Obviously, there were written

protests that were received yet not considered at the hearing and that is the reason we are doing this amendment.

Ms. Hellegaard asked if it is problematic that the Administration still hasn't accounted for all written protests. She said she has found 16 protests that were received and stamped by the City Clerks Office yet are not counted in the protest. They still have not found her hand delivered protest. Their records are inaccurate and there is a huge credibility issue here. My constituents are beginning to ask me how many protests have been shredded.

Ed Childers asked Ms. Hellegaard if she has found additional uncounted protests, why has she not brought them forward earlier.

Mr. Bender said they are willing to look at anything she has.

Ms. Hellegaard said on page 3 its states the creation resolution did not propose to assess properties owned by governmental agencies, that statement is not correct. In the Resolution of Intent, it stated that all properties in the district will be assessed and would like Mr. Bender to respond.

Mr. Bender said the creation resolution was the final resolution that was approved.

Ms Hellegaard said yes, in the final resolution and in your exhibit it states that all properties will be assessed.

Mr. Koegen read section 4 of the creation resolution and said it's clear that the only properties to be assessed are only properties with taxable value.

Mr. Bender explained that the resolution of intention and creation resolution are 2 separate resolutions.

Stacy Rye asked Ms. Hellegaard about her hand delivered protest and if she got a copy of it when she turned it in.

Jon Wilkins said he delivered it, but didn't wait to get a receipt as the office was busy.

Renee Mitchell asked what the reason is to give the exact number of protests; we have established that we cannot give the exact number of protests because there are many uncounted. Why isn't it sufficient that we say we didn't meet the required amount of protests to block the creation of the districts?

Mr. Koegen said we could do that.

Ms. Mitchell said she thinks we need to make some changes as it will be difficult for her to sign a resolution that has inaccurate information. She asked if the DOR actually said they were not allowed to assign value to the un-assessed properties.

Mr. Bender responded that the DOR said they could not assign a taxable value to tax exempt properties. They stated it in a meeting and an email.

Ms. Mitchell asked if they said the City could assign those values.

Mr. Koegen responded that the DOR said absolutely not. They said the only agency that could assign taxable value is the DOR, and if the City tried to , the DOR would challenge the City's authority.

Ms. Mitchell commented on Montana Code 711-1008 section 3a, it refers to using the County Clerk and Recorder records; it says nothing about state DOR.

Mr. Koegen explained that we used both methods.

Dick Haines expressed deep concerns regarding the tax exempt property owners who were not and never will be included in the protest. He thinks the whole process and the credibility is in question. Part of the credibility issue, is that the Mayor was out negotiating without a right to do so. Under Montana code 711-1008 it states clearly that property owned by a government entity must be considered the same as any other property in the district.

Stacy Rye said if there are only minor modifications she is willing to go forward on this resolution. She moved to approve the park and road district resolutions. She suggested human error may have contributed to the miscounted protests. The number of those protests is very small and does not change the outcome one bit. She is not sure what some other Council members are after, but said there was clearly no nefarious conspiracy to shred protest documents. The City Administration has made an effort to correct the error and she said she appreciated that. The Mayor has full authority to determine what he thinks is in the best interest for Missoulians. It is a separate branch of government, it is up to the City Council to pass, not pass or amend some policy that the Administration brings to us. In the best interest of Missoula we determined that these special districts were needed and the majority of Missoulians agreed.

Mr. Childers said we have a motion on the floor and called for public comment.

Public Comment:

John Hendrickson, MBIA, responded to Ms. Rye's comment about the Mayor out negotiating. He said on September 19, the Mayor did announce he was negotiating with the University and County. Less than 3 hours later he found out that the Administration had sent out the notification letters to the non profits. Nowhere in that letter did it say they had a right to protest, it's simply said they would be assessed zero. Next year if we change methodology, those properties can be included in the district but will still never have a right to protest. Their due process was corrupted. He doesn't think the City did its homework.

Mr. Childers moved to call the question.

Upon a voice vote, the motion to call the question passed unanimously.

Upon a voice vote, to adopt the amended resolutions, the motion passed with Wilkins, Hellegaard, Mitchell and Haines voting nay.

III. Held in committee

- A. Update on the quarterly budget report ([memo](#)).—Regular Agenda (Lyn Hellegaard) (Referred to committee: 04/26/10)
- B. Review and make recommendations on a proposal to create two City-wide maintenance districts for the purpose of funding a portion of the costs to provide public street and park maintenance ([memo](#)).—Regular Agenda (Carla Krause) (Returned from council floor: 06/21/10) (*Tabled 06/23/2010*)

IV. Adjournment

The meeting was adjourned at 12:05pm

Respectfully submitted,

Dee Andersen,
Administrative Secretary