

PUBLIC WORKS COMMITTEE REPORT
October 27, 2010 2:20 PM
City Council Chambers

Members Present: Jason Wiener (chair), Ed Childers, Dick Haines, Lyn Hellegaard, Roy Houseman, Bob Jaffe, Renee Mitchell, Stacy Rye, Dave Strohmaier, Pam Walzer, Jon Wilkins

Members Absent: Marilyn Marler

Others Present: Steve King, Kevin Slovarp, Doug Harby, Jack Stucky, Jeremy Moran, Nancy Wilson

I. ADMINISTRATIVE BUSINESS

- A. Approval of the minutes of [October 20, 2010](#) Approved as submitted
- B. Announcements –Steve King, Public Works Director, announced there would be a ribbon cutting ceremony for the Miller Creek Project at 12:30 PM on November 4, 2010.
- C. Public Comment on Non-Agenda items – None

II. CONSENT AGENDA ITEMS

- 1. Approve and authorize the Mayor to sign an agreement with the Montana Department of Transportation (MDT) for the acquisition of one new street sweeper. ([memo](#))—Regular Agenda (Jack Stucky) (Referred to committee: 10/01/10)
(REMOVE FROM AGENDA)

Motion: The committee recommends the City Council authorize the Mayor to sign a memorandum of agreement with the Montana Department of Transportation (MDT) for the acquisition of one new street sweeper and authorize the payment of the CMAQ local match funds of \$34,803.64 to the Montana Department of Transportation.

Jack Stucky, Vehicle Maintenance Superintendent, recommended the committee authorize the Mayor to sign a memorandum for the acquisition of a new street sweeper and a payment of \$34,803.64 in local match funds. He said this is the process that has been used to purchase all street sweepers that are currently used in the street sweeping program. He said the price of this sweeper took a dramatic increase because of the Clean Air Act requirements and primarily because American manufactures have discontinued the cab over style chassis; the only available ones are foreign made.

Roy Houseman made the motion to have the committee recommend the City Council authorize the Mayor to sign the agreement with Montana Department of Transportation for the acquisition of one new street sweeper and authorize the payment of Congestion Mitigation and Air Quality (CMAQ) local match funds.

The motion was passed unanimously.

- 2. Approve and authorize the right-of-way encroachment at 424 North Higgins for Carla Mancini. ([memo](#))—Regular Agenda (Doug Harby) (Referred to committee: 10/25/10) **(REMOVE FROM AGENDA)**

Motion: The committee recommends the City Council approve and authorize the right-of-way encroachment at 424 North Higgins for Carla Mancini (owner).

Doug Harby, Construction Project Manager, provided background information for the proposed renovation for 424 North Higgins Avenue. The owner, Carla Mancini plans to put a restaurant on the first floor, a Microbrew Pub on the second floor and a Cooking School on the third floor. She would like to install a balcony on the second floor that would extend the width of the building and five feet over the sidewalk; and on the third floor install balconies in front of the windows and doors extending out three feet. Doug Harby said the City Public Works Department supports this request.

Ed Childers made the motion to have the committee recommend the City Council approve and authorize the right-of-way encroachment.

Pam Walzer asked if this encroachment was any larger or farther out than any other right-of-way encroachments that have been approved. Doug Harby said this encroachment does not extend as far as some awnings do.

The motion was passed unanimously.

III. REGULAR AGENDA ITEMS

1. Update from staff regarding the status and schedule for 3rd and Russell project. ([memo](#))—Regular Agenda (Bob Jaffe)
(Referred to committee: 10/25/10)(**REMOVE FROM AGENDA**)

Steve King, Public Works Director, said there are two Russell Street agenda items, an update on the status of the project, and an action item for the HKM Engineering Inc. Services Contract Amendment for additional work. He said the contract amendment is necessary to complete the Final Environmental Impact Statement (FEIS) and to address a Federal Highway Administration request to re-write Section 4(f) discussion in Chapter 5 and to make modifications to graphics in Chapter 2. He said the re-write is out-of-scope because it differs from the original direction provided by the FHWA-Montana Division. The Federal Highway Administration's San Francisco legal counsel reviewed the document for legal sufficiency and the legal counsel wanted the document presented in a different way. The edit required additional time that is quantified in the hours to do the rewrite. There were also modifications to the graphics in Chapter 2 that was also an out-of-scope additional hours.

Kevin Slovark said the amendment included in the packet was not the most current update of the amendment. Steve King said we would need to hold the Service Amendment and would turn it into an action item when the proper draft is provided.

Dave Strohmaier asked if the work had already been conducted under this amendment and were they just authorizing the payment. Steve King said the work was in progress right now.

Stacy Rye asked why HKM Engineering Inc. was not aware of the work that would need to be done to complete this project and had asked for numerous change amendments. She said she thinks any engineering firm is able to anticipate project changes and plan for these changes without numerous amendments, she finds this request questionable at this point and she does not know if she can support more change amendments on this project.

Steve King explained that this project is now in its tenth year in creating the Final Environmental Impact Statement (FEIS) and the document fully satisfies City Public Works interests, but it does not satisfy the State and Federal interests that are essential to approve the project. It is out-of-scope because the contractor Dowl HKM scoped a normal linear process of review and edit for these documents and there was edit time anticipated. He said this is now their third iteration of legal sufficiency of review and edit partially because of conflicting or contradictory information between different agency comments. These changes were unanticipated in the original contract and were out-of-scope of the original contract. He said Amendment 9 goes through March 2011 when a Record of Decision is expected.

Stacy Rye said she would believe this except this is amendment number nine and hoping this is the last one does not mean anything. She said she believes this firm only does work with people that they can do change orders for.

Steve King said several of the change orders were directly caused by the City Council; the major amendments were related to the PEER Review and cumulatively several years of delay on the part of the City by asking for more in depth review of the Draft Environmental Impact Statement.

Jason Wiener said the Amendment document states an anticipated two days for the re-write of 4(f) and in Exhibit B, the itemized list of hours states the re-write of 4(f) has a total of forty hours. He hopes these figures add up next week.

Ed Childers said we need to continue because we have been involved so long we cannot stop now.

Bob Jaffe said he agrees with Ed Childers and he asked when the PEER review was scoped wasn't HKM Engineering Inc. paid in excess of \$80,000 and wasn't that part of why we paid them?

Steve King said the amendment proposed today is dealing with the legal sufficiency iterations. Steve said there have been eight previous amendments including the PEER review.

Bob Jaffe said when the California lawyers are saying this is not constructed correctly whose responsibility was it to see that it was correctly constructed; isn't that what we paid for.

Steve King said City Public Works is not administering this independently, there is Montana Department of Transportation and their environmental staff, and the Federal Highway Administration and their Montana staff, and both are giving

direction to HKM Engineering Inc. on the initial drafts. When these initial drafts were sent to San Francisco they received yet a different contradictory direction.

Bob Jaffe said we had a contract with HKM Engineering Inc. to accomplish a task, he asked if this was essentially for time and materials and also included the length of time it took to complete regardless of how many times it took to achieve that, wasn't it agreed to in the document?

Steve King said there were explicit scope and work elements and hours assigned for each scope. This was additional work not caused by HKM Engineering and there was no defect or deficiency in their work product, these are extra hours needed to make these additional requests from the approval agencies. He said the State has a scope with hundreds of steps and HKM Engineering scoped from one to one hundred. The State and Federal agencies have added more steps and the steps have either gotten bigger, more complex or redone and those are extra hours were required by the agencies and performed by the engineer.

Jason Wiener said the committee would come back to the contract amendment for action at the next meeting.

3rd Street

Steve King said there are two big parts to this project; the 3rd Street project and the Russell Street project. These projects have two separate contracts with two different approaches. The South 3rd Street reconstruction from Russell to Reserve Street is anticipated as a local project, with local assessments to the adjacent property owners being a substantial financial component. He said this City Council will have the ability to create those assessments to initiate the 3rd Street project. The City has received approval from the Department of Transportation and the Federal Highway Administration (FHWA) for starting that process before the Record of Decision for the Environmental Impact Statement (EIS), they are allowing us to solicit the engineering services to do the preliminary work related to the utilities, irrigation ditches, the right-of-way, the soil characteristics, all the things related that could be applicable to any alternative. Public Works will be bringing the committee an engineering services proposal for the preliminary analysis and review for the 3rd Street local project in a few weeks. He said the concept is to do the preliminary design work in 2010 that would allow contracts to be let in 2011 for the initial phase of reconstruction (*correction: the dates should be 2011 and 2012*). There is a mile from Russell to Reserve that the City does not have the ability to do as a local project and that section will be done in segments. He said we have always planned on doing this part in phases; one is what the public can bear as far as a summer of construction and what the Street Division can accommodate for the local construction. He said there are three major components, the assessment for curb and sidewalk to the adjacent property owners, traffic impact fee fund for the material costs and the City Streets Division that would do the labor of the asphalt paving and drainage work.

Jason Weiner asked if the 3rd Street project would include the additional traffic control that is in the Environmental Impact Statement (EIS) at Johnson.

Steve King said there are three signalized intersections in the draft Final Environmental Impact Statement yet to be approved, they are at Catlin, Johnson and Curtis and none of those are in the local project funding at this time, he said it would be incorporated into the long range transportation plan funding. He said we would like to get the curb and sidewalks in to establish the road template and as funding allows be able to complete the full scope of the Environmental Impact Statement.

Bob Jaffe said it would be helpful to have the engineering agreement with the RFP before the actual contract. Steve King said he would have the preliminary [DRAFT RFP](#) that would be subject to change, linked to the minutes.

Kevin Slovarp said the original RFP is basically data collection, it has nothing to do with design and we are not anticipating any design work at this time. He said the design is not set at this point. The FHWA and the State have told us we cannot do any part of the design until the Environmental Impact Statement (EIS) is finalized.

Stacy Rye also wants to see the agreement to make sure it doesn't preclude whatever design the council may be interested in.

Steve King said the LRTP proposal is local funding which does not preclude us receiving Federal funding in the future, it could change if we received an earmark or increased Federal aid. He said those changes would allow the LRTP to be amended to receive Federal funding.

Jason Wiener asked if this was for the street/curb and sidewalk or the signals. Steve said for the signals.

Stacy Rye left the meeting at 3:04 P.M.

Russell Street

Steve King said Russell Street has a major arterial bridge crossing the Clark Fork River and it is a complicated and expensive process to build a bridge across a river on a State arterial roadway. He said the bridge construction is directly related to the Broadway/Russell intersection, and that would severely affect Broadway and Russell. In the initial phase of the construction, the portion starting at the north end of Russell Street and working south is a Federal Aid project. Currently there is approximately twenty six million dollars of Federal Aid money for this to be completed. He said because it is a Federal Aid project there would be years of process to go through for the design and implementation of Russell Street after the Environmental Impact Statement (EIS). He said everything will need to be approved by the Montana Department of Transportation (MDT) and ultimately by the Federal Highway Administration (FHWA). He said we have had preliminary discussions with the MDT and FHWA about how to do this; one way to is called Design Build, this is to work with an outline of the project, bid it out with a consortium of a general contractor and an engineering group, these bids are to design and build simultaneously; being able to move earth and initiate construction before the final design is completed and approved by the MDT. The Montana Department of Transportation (MDT) has recommended this as a way to expedite the project with a minimum of eighteen months of time savings, to have their staff move this along quicker than the traditional design, bid and build. Steve said it is important for the Committee to know the cost and benefit of the two basic paths for implementation of Russell Street. He said the decisions on how to implement Russell Street would come from Montana Department of Transportation (MDT), FHWA, and through City Council.

Pam Walzer said the Russell/Broadway intersection is complicated and the community is very vested in the design of it. She said she is concerned about having the design and build at the same time before the design is finished.

Steve King said City Public Works staff has been talking about using Stephens Avenue as a model for Russell Street. He said there was collaboration between the local officials and the neighborhood that designed Stephens Avenue. Goals were identified then the neighborhood was asked to vote on their choices. Steve said he feels the same process could be used as a model for Russell Street.

Pam Walzer asked if the concept would be for a Design Build for the entire project and not just the bridge and the intersection.

Steve King said yes, he said there would be local influence and this would be a significant community project.

Jason Wiener asked Steve King if he is hoping to present the committee with a selection process for choosing contractors the day after the Record of Decision or would we have the contracts ready for approval the day after.

Steve King said what he expects the day after the Record of Decision would be a City/State agreement for project implementation. He said we would refer a memorandum of understanding between the City and State on how to move into the project implementation and the content of the memorandum would be resolved through Council and public deliberation.

Jason Wiener asked concerning the RFP, what qualifications would be used in scoring the applicants for the designers and builders, how we would select the contractor. He thinks there would be benefits to selecting local people who would have a continued stake in the community and he would like to give them a fair chance to compete with out of state contractors.

Steve King said there is a current City Ordinance on procurement of professional services with guidelines for selection. If we go with the Design Build contract then we refer to the Montana Code Annotated. MCA also has Design Build procurement guidelines and it would probably be a melding of both ordinance and State law if we go with the Design Build process.

Ed asked when he expected the Record of Decision. Steve King said he was anticipating March 2011.

Public Comment:

Nancy Wilson with ASUM Transportation and with Missoula Advocates for Sustainable Transportation said she feels she is in a meeting that should not be happening. She thinks that to move forward as though the Public comments have been addressed without the Public knowing their comments have been addressed is mortifying. She said the public has not had an opportunity to see the changes made to the Environmental Impact Statement (EIS) and no one has told her there were

any major changes to it. She wanted to know how the public's comments have been addressed. She said there have been years since the last public meeting and she wants to know what has happened that have included "the public". She said to Design Build when the public hasn't even seen the EIS changes or made any comments on it is frightening.

Bob Jaffe asked if Steve King could give a synopsis on the actual Public process of the Environmental Impact Statement (EIS).

Steve King said there was the draft Environmental Impact Statement (EIS) produced in 2008 and after the Draft EIS was published there was interest in alternative analysis and having an independent third party look at it. This was the Council's requested PEER review. He said there were publically attended meetings related to the development of the PEER review and there was a PEER review subcommittee that met several times. He said the product of the PEER review has been public for approximately a year. The PEER review helped populate the draft of the Final Environmental Impact Statement (FEIS) that has been in a drafting form the last year. Before the Final Environmental Impact Statement can go public it needs to meet legal sufficiency, it needs to be deemed sufficient by the FHWA legal counsel, and that is where we are now. Once the legal sufficiency has been granted then the Final Environmental Impact Statement can be publically distributed. The Final Environmental Impact Statement publication will be available; it will be posted on the web and will be available at the library. He said there is not a public hearing process on the Final Environmental Impact Statement but there is a thirty day distribution period on the FEIS. From the Final Environmental Impact Statement publication there are thirty days before the next actions are contemplated heading toward a Record of Decision

Dave Strohmaier said there is frequently misunderstandings to agency response to comments, he said NEPA requires agencies to evaluate and respond to comment and it does not necessarily equate to the document changing precisely the way in which the commenter's are requesting. He used the example of the Broadway and Russell intersection, he said the preferred alternative may delineate the maximum right-of-way acquisition but that is not necessarily dictating what actually gets implemented.

Steve King said within the Environmental Impact Statement (EIS) there is language to say, and he paraphrased, as the community changes and there are substantial changes in the community and progress is made with traffic operations and traffic growth, there is the ability to revisit and amend the document. He said what you will see about the Broadway/Russell Street intersection will be the biggest footprint of impact, what will actually be built will be that or smaller and the actual intersection treatments on some components will be decades away. He said by that time it would be much more apparent as to what the appropriate traffic control structures would be.

2. Approve amendment number 9 to existing City/HKM Engineering, Inc. agreement for the Russell Street / South 3rd Street - Environmental Impact Statement Project. ([memo](#))—Regular Agenda (Gregg Wood) (Referred to committee: 10/18/10) **(HELD IN COMMITTEE)** ([Previous Version of Amendment](#)) The committee will discuss at a later date.

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. Resolution to restore vacated Inez Street at South 2nd Street to the public trust and public use, and vacate a public access easement that was a condition of the vacation ([memo](#)).—Regular Agenda (Carla Krause) (Referred to committee: 04/26/2010)
4. T4 America partner support ([memo](#)) – Regular Agenda (Stacy Rye) (Referred to committee: Referred to committee: 08/16/10) **(HELD IN COMMITTEE)**
5. Use of \$60,000 allocated by FY2011 Budget in Road District #1. ([memo](#))—Regular Agenda (Ed Childers) (Referred to committee: 09/20/2010)
6. An [ordinance](#) amending Chapter 15.44 and renaming the chapter from “House Moving” to “Oversize Loads and House Moving” to include oversize loads and update fees and regulations and an [emergency ordinance](#) amending Chapter 15.44 and renaming the chapter from “House Moving” to “Oversize Loads and House Moving” and amending Chapter 5.70 “House Moving” to include oversize loads and update fees and regulations, enacted as an emergency ordinance in order to have terms and conditions clearly established prior to the commencement of the Kearsley Module Transportation project, which will move a large number of oversize loads through Missoula.(Committee Working Draft 10/13/2010) ([Memo](#)) ([PW](#))
7. Ordinance revising requirements relating to sewer connection on sale. ([memo](#))—Regular Agenda (Jason Wiener) (Referred to committee 10/18/2010)
8. Develop ordinance language to amend MCC Chapter 12.30, Fences and/or MCC 8.44 Barbed Wire and Electrical

Fences. ([memo](#))—Regular Agenda (Pam Walzer)(Referred to committee: 10/25/10) Discuss needed improvements to
9. Curtis St (between 3rd and River Rd), and timelines/budgets/funding sources related **to** those improvements. ([memo](#))
Regular Agenda (Marilyn Marler) (Referred to committee: 10/25/10)

V. ADJOURNMENT

Meeting adjourned at 3:30PM

Respectfully Submitted,

Peggy Diamond, Program Specialist
City Public Works Department