

PUBLIC WORKS COMMITTEE REPORT

July 13, 2011 10:05 AM

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: Bruce Bender, Steve King, Brentt Ramharter, Dan Jordan, Doug Harby, Starr Sullivan, Kevin Slovarp, Gregg Wood, Phil Smith, Jerry Wolf, Tom Pawlish, Ryan Sudbury

I. ADMINISTRATIVE BUSINESS

- A. Approval of the minutes of – June 29, 2011 Approved as submitted
- B. Announcements – Doug Harby, Project Manager gave an update on some upcoming City projects. Because the Federal Highway Administration (FHWA) has increased the over site of any Community Transportation Enhancement Program (CTEP) projects, and because some of the bids have come in higher than anticipated the Lolo Street project will be delayed until spring. Safe Routes to Schools will be a spring project due to receiving the approval in early May and the length of time it takes for the bidding process it would delay the start of the project until October and that is not a feasible start date because of weather and school starting. Rebuilding 6th Street between Kemp and Schilling will also be a spring project due to changes in the way assessments are computed for condominiums and the process to go from receiving the order to construction takes approximately one hundred days.
- C. Public Comment on Non-Agenda items – None

II. CONSENT AGENDA ITEMS

1. Approve and authorize mayor to sign change order #1 to Lower Miller Creek Road Curb and Sidewalk contract. (memo)—Regular Agenda (Monte Sipe) (Referred to committee: 06/27/11)(REMOVE FROM AGENDA)

Motion: The committee recommends the City Council approve and authorize the Mayor to sign Change Order #1 to the Contract between the City of Missoula and LS Jensen for Project 09-039 Lower Miller Creek Rd. Curb & Sidewalk in the amount of \$30,528.20.

Monte Sipe, Project Coordinator said this referral was a consideration for Change Order #1 for the Lower Miller Creek curb and sidewalk project that was awarded to L.S. Jensen. This will add additional quantities of work to install a four foot asphalt shoulder/bike lane on the north side of Lower Miller Creek Road from the termination of the curb/gutter section to the intersection with Linda Vista Boulevard. The original contract award on May 3, 2011 was \$411,558.85. This Change Order for \$30,528.20 brings the new contract total to \$442,087.05. The Change Order item descriptions and costs are shown in the [Change Order attachment](#). The original project was awarded for the base bid only without four alternate bid items; the first two alternates were extensions for additional curb and gutter sections. The reason these alternate bid items were set up separately is because we are limited in the funding from the Western Federal Lands Grant. Depending on the funding still available we are hoping to include chip and seal in this project. Staff is asking for approval of this Change Order.

Marilyn Marler made the motion to recommend the City Council approve and authorize the Mayor to sign Change Order #1 to the Contract between the City of Missoula and L.S. Jensen for Project 09-039 Lower Miller Creek Road Curb and Sidewalk in the amount of \$30,528.20.

The motion was passed unanimously.

2. Establish the Pedestrian Connection Subcommittee. (memo)—Regular Agenda (Jason Wiener)
(Referred to committee: 07/11/11)(REMOVE FROM AGENDA)

Jason Wiener stated this referral was a follow up to a recommendation from the Bike/Ped Board asking the Council to evaluate the way the City constructs sidewalks. The City Council can establish a subcommittee per Council Rule 21.C. There have been meetings with the Administrative Leadership Team, interested parties and Council members, and Marilyn Marler agreed to chair the subcommittee.

Marilyn Marler invited all of the City Council members to be on the committee. Sidewalk funding has been an issue for several years, and one of the goals she would like for them to try to solve is this problem. She requested the meetings for the subcommittee be held on Wednesdays. She also asked if anyone is interested in joining the committee or knows of any citizens that would like to join, to contact her. The first meeting date will be announced soon.

Ryan Sudbury, member of the Bicycle Pedestrian Advisory Board said he thinks this is a great step forward in solving some of these long term issues with completing some of the sidewalk infrastructure in the City. He is volunteering to serve on the committee.

Jason Wiener thanked all those volunteering and to Marilyn Marler for chairing the committee and to the Administration for providing staff time. This is an opportunity to look at the sidewalk problems as a whole and come up with solutions. He would like to have a progress report in January 2012.

Jason Wiener made the motion to recommend the Public Works Committee establish the Pedestrian Connection Subcommittee under Council Rule 21.C with the following criteria required by the rule:

1. Purpose: Recommend a strategy, timeline and mechanisms for completing the City's pedestrian network.
2. Scope: Dissatisfaction with the pace of sidewalk installation and apportionment of payment for those installations prompted the Bike-Ped Advisory Board to request the subcommittee, which is also recommended by the Missoula Active Transportation Plan currently under governing body review. The subcommittee may recommend changes to type of pedestrian infrastructure to be installed as well as changes to the financing for those installations as part of its report.
3. Voting members: Marilyn Marler (chair), Cynthia Wolken, Dick Haines, Bob Jaffe, Pam Walzer, Ed Childers, Doug Harby, Jackie Corday, Phil Smith, Greg Oliver, Jon Salmonson, others to invite?
4. Timeframe: Progress report in January 2012.

And to have the voting membership established at the first meeting of the subcommittee.

Renee Mitchell asked if the subcommittee would basically be doing a study and inventory of sidewalks.

Marilyn Marler stated some inventory work has been done and a lot of aerial photos of where there are sidewalks and where sidewalks are missing. The purpose of this committee is to answer questions on how to make progress on finishing the sidewalk connections without bankrupting the corner lots, placing huge assessments on a few people when adjacent people do not pay anything. Some solutions might be a citywide levy or sidewalk districts similar to lighting districts, or some combination of these. Another problem to discuss is do we need to prioritize building new sidewalks versus repairing existing sidewalks?

Bob Jaffe asked if Jason Wiener's motion should include the appointment of Marilyn Marler as chair of the committee.

Jason Wiener said yes to the addition of Marilyn Marler's appointment as the chair and to also add that the voting membership is to be established at the first meeting.

The motion passed unanimously.

III. REGULAR AGENDA ITEMS

1. Purchase 32+ acre tract owned by EKO Compost for the amount of \$1.2 M (additional \$300,000 conditioned upon Flood Plain removal) and grant a Lease Agreement with EKO Compost for a five year period. (memo)—Regular Agenda (Bruce Bender) (Referred to committee: 06/27/11)(REMOVE FROM AGENDA)

Motion: The committee recommends the City Council approve and authorize the Mayor to sign the Agreement to Sell and Purchase Real Property, Warranty Deed, Promissory Note, Request for Full Conveyance, Montana Deed of Trust and the Lease Agreement.

Bruce Bender, Chief Administrative Officer introduced the owner of EKO Compost Inc., Mr. Tom Pawlish, stating that the City has been discussing the possibility of this purchase for approximately a year. Using a [power point presentation](#) he showed aerial maps of the EKO Compost property. EKO Compost Inc. owns 32+ acres adjacent to the Wastewater Treatment Plant and operates a composting facility on 20+ acres. The cost of the 32.48 acres is \$1.5 million dollars with \$300,000.00 conditional upon 11 acres being removed from the flood plain within 3 years; EKO Compost has a submittal into FEMA and is waiting for review and finalization of the process. A 2007 appraisal for the property was \$1.7 million, the City updated the appraisal in 2010 and it appraised at \$1.2 million (determined that 100% of the property was in the flood plain). The difference in the appraisals is a recognition that 11 acres is outside the flood plain. If Mr. Pawlish is unable to remove the 11 acres from the flood plain within three years the City would pay \$1.2 million.

Steve King, Public Works Director explained the City hired a local consulting firm, AMEC Geomatrix, Inc. that specializes in environmental assessments. They did an Environmental Site Assessment (ESA) of the EKO property to determine the history of and the current use of the property. To complete the assessment they visited the project site, conducted interviews, developed report figures and drafted the report. AMEC company performed database searches, reviewed previous environmental reports specific to the site and consistent with the American Society of Testing Materials (ASTM) standards. The purpose of the report was to compile and review available information about the project site and to identify Recognized Environmental Conditions (REC's). They did find a relatively clean site history consisting of a rock quarry, lagoons for the Wastewater Treatment Plant, and the composting facility. They did find some miscellaneous industrial debris such as pipes, plastics etc. and it is a condition in the buy sell agreement that the seller shall remove all identified debris piles and materials before closing on the property.

Bruce Bender reminded the committee that this purchase was included in the FY12 Budget as a Capital Improvements Program (CIP). Continuing with the power point presentation a breakdown of the payment plan was explained, starting with the initial FY12 payment of \$300,000.00 at closing conditional on the FEMA flood plain removal and payments each Fiscal Year through FY16. The payments will come from the Sewer Development Fee Fund. The City will own the land but EKO Compost will continue to maintain their composting business, so part of the document is a lease to EKO Compost at \$45,000.00 annually with a 3% annual increase. This is a five year lease with the City and EKO Compost both having the option to extend the lease every five years. The benefits to the City for owning the land is to secure the composting facility, control usage of the property and at some future date expansion of the Wastewater Treatment Plant.

Dick Haines asked for formal written documentation of the reasons the City needs to purchase this property rather than just the presentation given to the committee.

Cynthia Wolken stated there was a typo in the Lease Agreement, the Lessor and Lessee should be reversed on page two, number 4. Rental - paragraph one.

Renee Mitchell asked if the City would eventually own the EKO Compost business; and how much are the tipping fees the City pays them.

Bruce Bender said the City will be leasing the business back to EKO Compost; it is not the intent of the City to own the business but to make certain that whoever is there continues a composting operation. The tipping fees are over \$300,000.00 annually.

Bob Jaffe asked if terms allowing more flexibility on where the pipe could be installed could be included in the documents.

Bruce Bender said the pipe would be above ground because it is an irrigation pipe; it would be feasible to have the pipe away from the operating portion of EKO Compost because they use large trucks and equipment that could cause problems.

Lyn Hellegaard said that \$1.5 million for land that is in the flood plain and could not be used for anything else seems too steep. She asked why we were paying full price for the property and not waiting until the owner listed the property for sale. A good negotiator can buy property for less than the appraisal price. She thinks we are paying full price for something we will not have access to for five years.

Bruce Bender said it is opportunity, to wait for the property to be put on the open market and the City engage in a bidding war is a risk. The City has a high interest in maintaining a composting operation there and in preserving the land for that use. It would be a high risk to play the market on something so critical to the Wastewater Treatment Plant.

Lyn Hellegaard asked if Mr. Pawlish has put his business up for sale. If it were sold and there is no private operator that wants to run the composting business then the City will be asking the tax payers to buy another business to run and she feels the City government should not be buying private businesses to run.

Bruce Bender said he agrees, it is not the City's intent to buy and produce products. The City does have to deal with the compost from the Wastewater Treatment Plant. The only option we would have would be to truck it to the landfill at a cost more than we pay now. Our interest is in trying to preserve the property so a private operation will continue there. Buying the land makes the investment for a composting operation much more feasible.

Marilyn Marler asked what is on the non-composting portion of this property.

Bruce Bender said that part of the land was not used by EKO Compost and the City has no specific use planned at this time. There may be a need in the future for the Wastewater Treatment Plant to expand and the City wants to preserve that right, it gives us flexibility.

Pam Walzer made the motion to recommend, with the typo in the Lease Agreement corrected, that the City Council approve and authorize the Mayor to sign the Agreement to Sell and Purchase Real Property, Warranty Deed, Promissory Note, Request for Full Conveyance, Montana Deed of Trust and the Lease Agreement. She asked what the difference in cost would be to pay tipping fees versus trucking the solids to the landfill for disposal.

Jason Wiener said the request from staff is to have this to the Council on July 25, 2011 and not on July 18, 2011 because Bruce Bender is not available on July 18, 2011.

Steve King explained discussions began in 2010 about the acquisition of the composting facility and the long term investment of the Wastewater Utility. Managing our bio-products with the most cost effective and with the least environmental impact to handle the solids was important, there are different options available. Public Works contracted with consultant Morrison Maierle Inc. who did a national literature search and produced a report that had nine different options for handling bio-solids. Some of

those options included our current composting, trucking to a farm land application, trucking to Allied Waste for landfill, etc. For each option they looked at the present cost, long term operation maintenance cost, and the carbon foot print for greenhouse gas production. After reviewing the options the conclusion and recommendation is the sustainable composting operation is the best value. In answer to Dick Haines question about why we should enter into this purchase, he explained that the sustainability of a composting operation has community benefit, a value added product and it is the most cost effective and has the least negative environmental impact for the long term use of the utility. An [Executive Summary of the Biosolids](#) and the [Environmental Assessment Report](#) is posted on line; copies of both are available in his office.

Renee Mitchell asked for an explanation of the process used to have some of the EKO Compost property removed from the flood plain.

Bruce Bender said this is the responsibility of EKO Compost and they hired an engineer to verify the elevations of the FEMA models and to submit it to FEMA for review and finalization. The work has been done and they are now waiting on FEMA to process it.

Dick Haines asked for a copy of the Executive Summary of the Biosolids.

Lyn Hellegaard asked if the City had contacted the Open Space committee about using some of those funds to reduce the cost of the City coffers or the growth fund to help pay for this. Bruce Bender replied no, that opportunity would be available if Open Space ever gets the adjacent property.

The motion passed with 7 ayes (Jason Wiener, Ed Childers, Bob Jaffe, Marilyn Marler, Dave Strohmaier, Pam Walzer, Cynthia Wolken), 3 nays (Dick Haines, Lyn Hellegaard, Renee Mitchell).

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. Presentation from Public Works staff regarding proposed process for finding contractors and awarding bids for reconstruction of Russell Street. ([memo](#))—Regular Agenda (Bob Jaffe) (Referred to committee: 11/15/2010)
5. 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)
6. 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)
7. Infrastructure condition inventory and maintenance requirements. ([memo](#))—Regular Agenda (Ed Childers) (Referred to committee: 07/11/11)
8. Discuss Mountain Water parent company's acquisition by the Carlyle Group. ([memo](#))—Regular Agenda (Jason Wiener) (Referred to committee: 07/11/11)

III. ADJOURNMENT

The meeting adjourned at 11:00 AM

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