

**PUBLIC WORKS COMMITTEE REPORT**  
**December 14, 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, Jon Wilkins, Cynthia Wolken

**Members Absent:**

**Others Present:** Steve King, Bruce Bender, Kevin Slovarp, Doug Harby, Gregg Wood, Phil Smith, Stacy Rye, Ann Cundy, Shane Stack, Don Sokoloski, Debbie Johnston, Ellen Buchannan, Greg Oliver, Jim Sayer, Marcia Hogan

**I. ADMINISTRATIVE BUSINESS**

- A. Approval of the minutes of – [December 7, 2011](#) Approved as submitted
- B. Announcements – None
- C. Public Comment on Non-Agenda items – None

**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, started the discussion by announcing he had Tim Conway, Consultant Design Engineer, and Miki Lloyd, Consultant Project Engineer from Helena via a telephone conference call as participants in the meeting.

Jason Wiener stated that he sent a letter summarizing the discussion last week on the draft City-State Agreement and copied the committee. Today's discussion will be on City participation in consultant selection and design, and in project governance, the public involvement process along with the other items outlined.

Bruce Bender, Chief Administrative Officer, stated they have been in discussions with Montana Department of Transportation (MDT), Miki Lloyd and Tim Conway in Helena. The City sent a preliminary proposal to them this morning discussing the concepts; and receiving their guidance in response to the committee's issues regarding public participation, consultant selection and design participation and this could be verbally discussed today.

Steve King started with the public process; his understanding was the committee wanted a charrette style or an open public venue for design interaction. What he suggested was to literally edit that into the public involvement section, when talking about a public meeting we explicitly say charrette style or the equivalent. With the consultant selection process the City has a seat at the table and working with the State in partnership they work with a short listing of a consultant group for proposals and after receiving those proposals they send their recommendations to the Consultant Selection Board. In the City-State Agreement as drafted, both the City and the State would need to agree on the outcome of consultant selection; effectively the City would have a veto on the consultant selection. The process involves first looking at a State list of pre-qualified engineers and consultant companies. The list has local consultants, state wide consultants, and regional consultants. The starting point is working with a Rating Committee.

Tim Conway explained in regard to the consultant selection with the short listing, MDT has five standing Consultant Selection Board members consisting of the Director, the Pre-construction

Engineer, the Chief Engineer, the Highway Engineer and one Ad-hoc member which is the District Administrator (currently Shane Stack, Acting District Administrator) they all have votes and the City would have one vote. The Consultant Selection Board tries to ensure that the local community interests are represented and happy with the selection process. The override process would be taken up through the Technical Design Committee or the Decision Team; the City would not have veto power at the Selection Board meeting.

Shane Stack gave a short explanation of the process: the Consultant Selection Board and the City vote get a short list of candidates and those candidates send in proposals or presentations. At that point there is a committee made up of City and State representatives that rank those consultants, and that committee can be made up of equal numbers of City and State representatives that have equal voting on those decisions. The rankings go back to the Consultant Selection Board, the first step is requesting the proposals or presentations and MDT puts a lot of weight in what the City wants, if there are two or three consultants that the City wants considered, they are considered – no questions. In the follow up after the rankings are completed, the City is asked for its opinion.

Bruce Bender mentioned that preliminarily they talked about the membership of one Council representative and one Mayor Representative on the Rating Committee. This committee reviews the short list of Consultants and then gives a recommendation to the Board; his understanding is the Rating Committee has much more flexibility than the Board.

Tim Conway stated that both proposals and presentations can be used.

Shane Stack stated with the Consultant Selection Process the first step is the City meets with the Consultant Selection Board (the City has one member on this Board) who select a short list with three to five consultants. Those consultants submit proposals or presentations or both. These are scored and ranked by the Rating Committee (with equal representation). Then that information goes to the Consultant Selection Board (City one vote) to make the final decision on the first consultant and usually a second choice in case the first consultant doesn't want the project.

Bruce asked if the State list of consultants was available publically so the Council looks at it with staff for consultants they would like to be considered so they would have recommendations to take to the Board.

Shane Stack replied in response to Bruce Bender's question the list is available. Tim Conway said there was a list of pre-qualified consultants on line by category.

Bruce Bender summarized that his understanding is he would be the one member from the City on the Selection Board and he would bring forth the agreed upon recommendations of consultants to be interviewed.

Ed Childers asked why the State has five representatives and the City only has one representative to come up with a recommendation.

Tim Conway answered that the Consultant procedures they are operating under is a formal Agreement between MDT and FHWA that was developed primarily for MDT's use and in this case MDT is administering the contract so we would fall under those procedures. If the City was administering this contract and chose to use our process and then didn't like the answer they would be at liberty to dismiss everything MDT and the Board did and do their own RFQ. Also the reason there are four standing Board members and one Ad-hoc member is to ensure there is a quorum for voting.

Ed Childers understands they are following due process but he was not sure that answered his question as to why it takes five State and only one City representative to do equivalent work.

Bruce Bender pointed out that one of the five members is the District Administrator and that is Shane Stack, Acting District Administrator so there would be two from Missoula and four from the State. He

has consistently heard from other cities that there is deference to the local's interest and they are very cooperative.

Bob Jaffe asked what the difference is in the criteria used by the Selection Committee and the criteria used by the Rating Committee. What does the Selection Committee have access to that the Rating Committee does not so that the Rating Committee's recommendation is incomplete? What would make the Board override the Rating Committee?

Shane Stack answered that the Rating Committee is going to base their ratings on the RFQ requirements and those requirements vary from project to project. They are at liberty to ask the consultant to discuss any part of the project they want, a plan, their public involvement, their experience with public involvement, etc.

Tim Conway added that he cannot recall the Board ever overriding the Rating Committee.

Stacy Rye stated in choosing a consultant MDT says local deference is paid a lot of attention to. She would prefer that we formalize with modification to the Agreement the City having more than one representative on the Selection Committee. She received a Memorandum of Agreement from OPG that came from a project that MDT worked on with the Tribes in regards to Highway 93 and she is interested in coming up with a hybrid agreement similar to that. It could be done so that there were equal members on the Selection Committee too. Her preference is to have both the Chair of the Public Works Committee and Bruce Bender have seats at that table.

Tim Conway said the recently approved consultant selection procedures does not allow for that and in talking with Bruce Bender and Steve King, he thought this issue had been addressed by having a higher level of authority identified so if the selection was unfavorable to the City they could appeal it to the higher authority for resolution.

Steve King said they are looking to integrate the working components into the City-State Agreement for the Russell Street Project using language from the Tribal/Federal/State Agreement. As Tim Conway mentioned that could be used in the Consultant Selection and in the Design issues, if there were an impasse in any of the facets of the projects there would be a decision team including a Council representative, a representative from the Mayor's office, and State and Federal representatives that would have authority to resolve the items at that level. We would call this the Decision Team and they would meet as needed. There is also a tie breaking procedure, a hierarchy of staff level recommendations and a Decision Team that would move forward in a public venue, with the Council and City Administration, MDT and FHWA having a say to bring the project forward and to have milestones documented that there was agreement and consent.

Bruce Bender said the appeal process goes to the Decision Making Team; if that group could not resolve it there is another tier that would go to the MDT Director and the Mayor, the final link.

Dick Haines asked if the Decision Team had to be unanimous or a majority? Steve King answered that the Decision Team is consensus driven, it is unanimous.

Shane Track replied that they just received all this information and would have to review some of the language to make sure we are all on board. From his experience they always reached consensus, there were never any unresolved issues. All our goals are the same, we are here for the public, we want to build the roadway so that it meets the City and communities requirements and needs.

Bob Jaffe asked if the process in Whitefish had a group for resolving conflicts. Bruce Bender said the model of Whitefish was identical to the one we are considering.

Shane Stack was involved in Whitefish West that had a committee made up of community members and through a consultant put together design elements. They resolved any issues as a group.

Miki Lloyd said the Whitefish **Urban** Project did not go through MDT and Whitefish was the lead in that project, they used a committee put together by their consultant, there was no formal agreement. The Whitefish **West** Project was handled through MDT but there was no project development agreement.

Shane Stack mentioned that in working with Whitefish, even without an agreement they still worked with them.

Public Comment:

Jim Sayer with Bike Walk Alliance of Missoula asked how the criteria were developed before the ranking committee meets to evaluate the consultants. And would the consultant presentations be in a public setting.

Tim Conway replied that the criteria is not predetermined through any process they have, therefore it is whatever MDT and the City want to develop for requirements in the presentation and/or proposals before the RFQ is done. In regards to the second question is he does not have an answer because typically it is not an open forum however he does not know that it couldn't be done.

Shane Stack stated by State law we are required to allow the public to attend the meetings.

Jeremy Keene with WGM Group wanted to add that they were the consultant working with MDT in Whitefish and the types of issues they worked through were design related, such as the decorative lighting, bridge esthetics, street trees, lane widths, etc.; all those things were balanced with what the Whitefish community needs were and the needs of a major U.S. Highway running through their town.

Jason Wiener said the public has expectations that when we are doing their business they are going to be able to observe that. He understands that consultants would not want to have other competing consultants listening in on their presentations and those types of situations would need to be worked out. He asked Steve King if he had a time line for getting information back to the Council.

Steve King sent a City-State Agreement draft to MDT for consideration and once a reply is received from them and hopefully with a consensus between City Administration and MDT, the department will be able to bring this back to the Council next week. There is no specific deadline or time line so this can continue to be discussed until we get an agreement.

Shane Stack made the proposal to try to get decision makers from MDT and the City including the legal review team to work on a final draft they can all agree on and bring that back to the committee.

Stacy Rye stated she did not hear anything about the Council confirming the final design and/or bid awards. She cannot remember the Council not signing off on a piece of work regardless of whose road it was, her understanding is the Council wanted to be in that process somewhere. The Council should be involved in the final design process and she would be reluctant to sign off on anything without Council inclusion.

Steve King using the Higgins/Beckwith Roundabout as an example explained the City was very active in that design, they worked with the locals on parkland, the remainder of the abandonment of the right-of-way to create a park space but the actual construction administration was by the MDT. MDT used their State process to award the contract and the City was not a part of that contract award.

Jason Wiener will try for more discussion next week but also said this could be continued into next year.

### 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 39<sup>th</sup> 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

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