

# MISSOULA REDEVELOPMENT AGENCY

## CONDENSED BOARD MEETING MINUTES

June 20, 2013

FINAL

A **Regular** meeting of the Board of Commissioners of the Missoula Redevelopment Agency was held at the MRA Conference Room, 140 West Pine, Missoula, MT 59802 at 12:00 PM. Those in attendance were as follows:

**Board:** Karl Englund, Nancy Moe, Daniel Kemmis, Rosalie Cates

**Staff:** Chris Behan, Jilayne Lee, Tod Gass, Juli Devlin

**Public:** Peter Walker-Keleher, DJ&A; Don McCammon, HDR Engineering, Inc.

### **CALL TO ORDER**

12:00 p.m.

### **APPROVAL OF MINUTES**

April 16, 2013 Regular Board Meeting Minutes approved as amended.

May 7, 2013 Special Board Meeting Minutes approved as amended.

**PUBLIC COMMENTS & ANNOUNCEMENTS** - None

### **ACTION ITEMS**

#### **Milwaukee Trail Lighting (URD II) – Request Approval of Surface Transportation Program - Enhancements (STPE) Funds (Behan)**

Behan said at the May 7, 2013 Board meeting the various segments of the Milwaukee Trail Lighting project were discussed and the Board approved MRA staff to enter into an engineering and services agreement. He said the cost (approximately \$120,000) of the Russell Street to Catlin Street segment will be paid out of the URD II Intermountain Project Bond. Behan referred to Buchanan's memo and said significant changes will soon take place regarding how states can allocate federal transportation money. Behan said in the past Missoula received a certain amount of the federal Surface Transportation Program - Enhancements (STPE) funds in the form of Community Transportation Enhancement Program (CTEP) funds based on its population. MRA has utilized CTEP funds for various projects over the years. In the future, these funds will

be available to all municipalities in Montana through a competitive application process and Missoula will no longer receive a standard allotment. On the positive side not all of Missoula's current CTEP funds have been spent and there is an urgency to expend these funds before they expire. Behan said Buchanan proposed the idea to the Transportation Planning Coordinating Committee (TPCC) to utilize existing CTEP funds that are currently set aside for the Russell Street Underpass project to add lighting to the Milwaukee Trail. In exchange, MRA would pay the same amount towards the Russell Street Underpass project once it is underway. Behan said this is a win/win situation since it allows the City to use the CTEP funds now on a project that is ready to go and it takes some burden off the District during this time of limited cash flow. District II will have additional funds available after the Civic Stadium debt is paid off in FY15.

Kemmis asked if the Board approves the use of the CTEP funds, would MRA be responsible for the local match of 13.42%. Behan said yes, if the entire \$200,000 of available CTEP funds are used, then MRA's obligation is the local match of 13.42% or \$26,840. Behan said the Board already approved lighting the California Street to Russell Street portion of the Milwaukee Trail. By using the CTEP funds, Behan feels MRA could light the remaining portion of the Trail from Catlin to Garfield Streets.

Moe asked if the \$200,000 was adequate for the last two sections of the Milwaukee Trail Lighting project. Behan said the Board has approved the project and an amount has been budgeted but these two sections of trail lighting have not gone out for bid. Behan said the rough estimate for these two sections is \$168,000.

Kemmis said the proposed motion authorizes the Board chairman to sign the Memorandum of Understanding (MOU) and asked if the Board could review the MOU before it is signed. Behan said the MOU is a standard form that would explain how the CTEP funds are being transferred from the Russell Street project to the Milwaukee Trail project and that MRA agrees to pay the local match of 13.42%. It would also memorialize MRA's future obligation for the Russell Street Underpass project. Discussion ensued.

Kemmis asked Behan how comfortable he was constructing the Trail Lighting for \$226,840. Behan said he was 80-90% confident in the figures.

**CATES: I MOVE THE BOARD APPROVE THE USE OF STPE/CTEP FUNDS FOR CONSTRUCTION OF THE LAST TWO SECTIONS OF LIGHTING ON THE MILWAUKEE TRAIL, CALIFORNIA TO RUSSELL AND CATLIN TO GARFIELD, IN URD II AND AUTHORIZE THE BOARD CHAIR TO SIGN THE MOU OUTLINED IN THIS MEMO.**

**Kemmis seconded the motion. No further discussion. Motion passed unanimously. (4 ayes, 0 nays) Reineking absent.**

Moe asked Kemmis if he wanted the MOU to be routed to the Board members before being signed by the Board Chair. Both Kemmis and Englund said yes.

**MRL Trestle Project – Contract Amendment with HDR Engineering (URD II) –  
Additional TIF Request (Behan)**

Behan said the Trestle looks great. He said the steel pilings have a rust patina which is the aesthetic goal. Before starting this project, Behan said, MRA was aware there would be unknown issues. He said the issues that came up are outlined in his memo and can be found in HDR's memo in greater detail. He said there were several issues that caused HDR to spend extra hours on the project. For example HDR was required to spend more time on site during the pile driving because of soil issues. Also, time was spent on site to make sure the contractor was correctly completing the pile driving.

Behan said Frontier West is the contractor and the only bridge building company who bid on the project. He said Frontier West provided a bid that was below the engineer's estimate. In addition, Behan said work was delayed on the front end of the project due to Northwestern Energy's delay in installing the gas line. Behan said regardless of these issues, the construction of the Trestle project was ahead of schedule and the total cost will end up being below what was budgeted. He said the Trestle project was originally budgeted for \$1 million and will end up costing approximately \$800,000. Behan said the extra time HDR spent on the project was definitely a benefit to the project. He said the cost increase for HDR's additional services is \$20,156.20.

Don McCammon, HDR Engineering, Inc., said during the contract negotiation process of the Trestle project between MRA and HDR, a budgeted amount was set which HDR felt comfortable with. This budgeted amount was based on time spent for construction management. McCammon said Frontier West bid low with the hope of cutting back on their management expense, so HDR stepped in because they wanted the project managed well. McCammon said one example was the pile drivings. The initial contractor's overrun report was for \$80,000. The pile drivings needed to meet MRL's specifications so HDR had to stay on site and monitor this aspect more than anticipated. In the end, HDR got the pile drivings to meet specifications and match the bid cost.

Behan said traditional engineering contracts generally include a few extra hours to cover change orders and field work directives.

Kemmis asked why there was no staff recommendation at the end of the memo. Behan said Buchanan and he agreed to let HDR make the request and explain to the Board their reasoning for this cost increase. Behan said he has no problem recommending the Board approve this request. Kemmis asked how this request differs from the South Avenue Right-of-Way (ROW) case. He said during the South Avenue ROW discussion, the Board agreed that set budgets not be retroactively adjusted for projects. Behan said the Board has a history of approving change orders, changes to service agreements, or even change orders to bid items because of unforeseen circumstances. Kemmis agreed with Behan but said the Board typically does not approve these requests once the project is actually complete. Kemmis asked, if these costs were accruing over time, why it wasn't brought to the Boards attention sooner. Behan said HDR was in

communication with MRA staff but at the time, costs were unknown and there wasn't enough time to schedule a Board meeting given the timing of the project and 48 hour public meeting notice.

Englund asked for clarification that the amount being requested today isn't altering the already approved total project cost. Behan said the original estimate for the entire MRL Trestle project was \$1 million for engineering and construction. Cates asked when the bid was awarded to Frontier West, what amount was approved. Behan said \$615,420 was approved and all of it was spent within a few thousand dollars. Behan reiterated there were two contracts: a construction contract with Frontier West for \$615,420 and an engineering contract with HDR, Inc. for \$109,000. HDR's original contract amount was \$99,500 and the Board later approved an additional \$9,500 for extra design services. Cates asked if the request today was to increase the \$109,000 by \$20,156.20. Behan said that was correct.

Cates said in HDR's memo it states "we (HDR) assumed, in our fee proposal that an average of three hours of construction management time per week would be used to track contractor's progress and progress paperwork for change orders as well as complete the other required construction documentation". Cates asked how the three hours per week was figured and if staff pressured HDR to over minimize actual costs. McCammon said both HDR and MRA were looking at ways to complete the project and stay within the \$1 million budget. He said keep in mind these discussions were back in October of 2012 and HDR had no idea a contractor would under bid the project by \$200,000. The project management component, McCammon said, ended up being HDR's responsibility rather than the contractor's responsibility. Discussion ensued.

Englund asked if the original contingency amount in the engineering contract should have been more. Behan said yes. McCammon said from the railroad industry standpoint it's preferred that engineers bid low and keep a tight budget so that if there are changes, those changes can be justified as the project moves forward. Cates asked what the contingency amount was in the engineering contract. Behan said there wasn't a contingency amount built into the engineering contract but there was a large contingency amount in the URD II Bond that was divided into each of the three projects (Wyoming Street, MRL Trestle, Silver Park) for both construction and engineering services. Lee pointed out the URD II Budget sheet and explained the \$5.75 million URD II Bond included a 15% contingency in the amount of \$536,149.

Englund asked McCammon if the railroads typically ask for anything more from HDR than what has been provided to MRA when justifying any changes. McCammon said no. He said everything is documented; emails are saved, hours worked are documented, necessary communication, etc.

Moe said she wasn't pleased to receive a 20% increase request from HDR. She asked Behan if he agreed with the examples and savings in HDR's memo. Behan said yes he agreed. Moe confirmed that Frontier West was aware of the additional work by HDR. Behan said yes. Moe said she understands the distinction between how the railroad

handles changes and how MRA handles changes but both require justification. She said whether the justification happens during the course of the project or after the completion of the project is not a fatal factor for her in approving this request. She said there's also a distinction between this project and the South Avenue ROW project in that part of the South Avenue ROW project work was not MRA's work. She said she considers the MRL Trestle project one of MRA's projects in which MRA was intimately involved with.

Englund said it sounds like MRA staff was in communication with HDR during this time. Behan said yes. McCammon said the project timing was sensitive due to the use of the Civic Stadium. Timing was also a factor in why a mid-project request for approval was not done because the pile driving was completed mid-May and the Trestle was complete a week later. He said there was minimal reaction time since the project itself took two weeks.

Kemmis said Behan's memo mentioned a \$10,000 miscellaneous line item in the construction contract and asked if a portion of that was used to offset HDR's costs. Behan said no. He said the \$10,000 was part of the construction contract and was used for time sensitive items that could be approved by the engineer via a phone call. He said the cost of the HDR engineer taking those phone calls is part of the \$20,156.20 being requested today.

Moe said she's inclined to pay HDR the additional \$20,156.20 for their services. She said the end result is a great project that was completed in a timely fashion and that ended up saving MRA money.

**MOE: I MOVE THAT THE BOARD APPROVE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR THE MRL TRESTLE REPLACEMENT BETWEEN MRA AND HDR ENGINEERING, INC. TO INCREASE THE TOTAL COST OF SERVICES BY \$20,156.20 FOR ADDITIONAL CONSTRUCTION ENGINEERING, CONTRACT ADMINISTRATION, AND PROJECT OVERSIGHT WORK DURING CONSTRUCTION OF THE MRL TRESTLE PROJECT.**

**Englund seconded the motion. No further discussion. Motion failed. (2 ayes, 2 nays) Reineking absent.**

Kemmis said he appreciates the good work and his vote is not aimed at HDR directly but he does have a strong concern about changing amounts retroactively once a project is complete.

*Don McCammon left the meeting.*

### **NON-ACTION ITEMS**

**Silver Park Phase IV (URD II – Report on Change Orders #2 and #3**

Behan reviewed his memo and briefly talked about change orders #2 and #3. The amount for change order #3 was \$10,781.73. Behan said because the amount was over the MRA Director's maximum spending limit (\$10,000) for the Millsite projects, the MRA Board Chair was notified and approved the expense. Kemmis asked Englund how, retroactively, he feels about the process being set up for the Chair to review and approve the expenses. Englund said at the time, he realized the necessity of the process given the complexity of the site and the time sensitivity relating to the Civic Stadium events. Englund said he would like return to the original Director's limit of \$10,000 for the remainder of the projects. He said the overage (\$781.73) he approved was very minimal.

**MRL Trestle Project – Contract Amendment with HDR Engineering (URD II) – Additional TIF Request (Behan) - Continued**

Cates asked if the Board could discuss the HDR agenda item again. She said the HDR memo describes an agreement that HDR would keep their fee low to meet MRA's concern regarding the overall project budget. Cates said in Behan's memo he states "MRA staff accepted that HDR knows considerably more about railroad bridge construction and accepted HDR's original scope and costs estimates documentation at face value". Cates said one reason she believes MRA should potentially reimburse HDR is because the contractor (Frontier West) essentially bid very low and the engineer (HDR) ended up managing the project and making sure the end result was a quality project. She said HDR's memo mentions three hours per week to be spent managing the project. Cates asked who came up with those hours and what they were based on. She said three hours per week just doesn't seem adequate knowing the complexity and time sensitivity involved in this project. Behan said if this was a standard bridge with little or no unforeseen issues, then the three hours per week would have been adequate. He said there was no pressure from MRA to have HDR minimize what is reality or necessity. Behan said engineering contracts may provide a monetary cushion in line items but typically there is no contingency amount.

Kemmis asked Cates if she thought a different kind of request might be eligible for reconsideration. Cates said she didn't feel HDR should bear the burden of a contractor under bidding the construction piece.

Kemmis asked Cates if she wanted to make a motion to reconsider the request and if her motion passes then HDR/MRA staff could come back to the Board with a revised proposal. Englund asked Behan if HDR would be able to provide documentation supporting the \$20,156.20 request. Behan said HDR would be happy to put something together for the July Board meeting.

**CATES: I MOVE THAT THE BOARD RECONSIDER THE VOTE REGARDING THE MRL TRESTLE CONTRACT AMENDMENT WITH HDR ENGINEERING, INC.**

**Kemmis seconded the motion. No further discussion. Motion passed unanimously. (4 ayes, 0 nays) Reineking absent.**

**NON-ACTION ITEMS - Continued**

**Wyoming Street – Report on Change Order #3 (URD II) – Brick Pavers**

Behan briefly reviewed Buchanan's memo in her absence.

**STAFF REPORTS**

**Director's Report**

Wyoming Street

Behan said Wyoming Street was paved up to the Trestle on June 18 and 19, 2013. He said because of the rain, Wyoming Street has not been striped yet.

Poverello Center

Behan said during demolition for the new Poverello Center, an underground foundation was located as well as an old Mountain Water utility line that will need to be capped.

Englund asked about the progress of the Cedar Street Triangle Public Improvements project. Gass said the project is on hold because the amount of right-of-way the Poverello Center will be able to dedicate to the City is currently unknown.

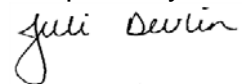
**Budget Reports**

Moe asked Lee why the Front Street URD revenue was 20% when the budget reports showed 50-60% revenue for the other districts. Lee said all of the revenue is committed to a clearing account for the Front Street Parking Structure. Lee said because the Front Street Parking Structure has a coverage component, MRA is required to send a much larger amount than the actual required bond payment. She said the additional amount is returned to MRA in November. Lee said Front Street URD is actually doing very well and the revenue percentage will increase within the next couple of months. She said timing and other subordinate debt expenditures are factors for the lower revenue percentage coming into the district.

**ADJOURNMENT**

Meeting adjourned at approximately 1:25 p.m.

Respectfully Submitted,



Juli Devlin