

PRIVATE PILOT GROUND SCHOOL

January 4 – March 10, 2005
Every Tuesday and Thursday
7:00 p.m. – 10:00 p.m.

Dillon Flying Service Office
2400 Airport Road
Dillon, Montana 59725
Contact Jean or Dennis 683-5242

**Pre-Registration
Is Required**
Tuition- \$350
Materials- \$170

Montana Street

Continued from page A-1

Malesich started the evening's work on the project by presenting a resolution that would formally authorize construction of the storm drain system and repaving Montana Street South, from Reeder to Helena Street, where it would join with the recently completed Montana North project.

The mayor noted he did not feel a resolution was actually required, because funding for the project had previously been authorized both in the bond issuing documents of the city's debt refinancing last year and in both the 2003 and 2004 budgets. But because at least some council members had objected that they had not voted on a resolution for the project, Malesich had directed City Attorney W. G. Gilbert to draft one for the meeting.

The resolution outlines the project's history

The resolution, in addition to giving approval for the project and how it would be financed, also outlined the history of the project itself, dating back to Mayor Jim Wilson in 1995 and several years later, when city councilman George Warner was then mayor.

That historical account drew the objections of Warner, who said "it contains a number of statements damaging to the city in the past."

Warner then ticked his way through the resolution, giving his opinion on several paragraphs, and contradicting the statement that the council had approved calling for bids on an early bid process, that resulted in a bid too high for the city to award.

He also questioned some line items on the budget and finished up his critique of the resolution by saying "my concern is that some funding mechanism can be reversed (in the future). It won't hold mustard," he warned, referring to the possibility of the Public Service Commission objecting to the use of water and sewer money for repayment of loans.

It that were to happen, he said, "there are not enough funds to cover it."

Warner requests SID to pay for street project

Warner also repeated his request that a Special Improvement District be formed so that property owners would pay for the paving project, although it is a

main arterial for the city. He stressed he was not against the street project... "I want to see it done. I've always wanted to see it done. I want a safe funding mechanism that will work."

Under the resolution, the city would pay for the estimated \$363,000 project, which includes engineering, inspection, construction and paving for the project, from several sources. The city's street maintenance district would pay \$100,060 and borrow another \$122,000 from reserves in the Water and Sewer Department. That money would be repaid with interest in the amount of about \$25,000, from gas tax revenues and or street maintenance revenues. The remainder of the project, or approximately \$150,000, would be paid from the city's capital project fund.

In answer to a question from City Council President J. S. Turner, a proponent of the project, Warner said using the entire city street maintenance reserve would not be a problem. "The problem is," he reiterated, "that we get the entire project done with funding that will take on the project. We don't want to do the project and find it won't work," and maybe, he said, it results in a lawsuit.

Turner answered back the resolution did just that and outlined the ways it would be paid. The refinancing of the city's debt last year took care of the portion covering the storm drain construction, a method that Warner has criticized.

Malesich turned to the city attorney and asked him, "Do you have any doubt on this?"

Gilbert said the city was within its authority to build both sewers and storm sewers, and that it could even use water reserves for their construction. While there were some restrictions, Gilbert said, on proportions of revenues and other regulations, generally the city could indeed use such funding for building the storm sewer portion of the project.

The city, he noted is also empowered to protect its aquifer, or groundwater, not just to deal with a specific threat on the ground water or aquifer, but to generally protect it in the future.

The city's main well, is within 100 feet of Montana Street, and such a project would protect it from possible pollution.

Most statutes, Gilbert said, don't specifically address the situation Dillon faces, but they do cover a sanitary sewer levy and how it can be used for payments of a storm sewer.

And that is how, Gilbert said, the city has set this up, utilizing money recovered from refinanc-

ing the city's outstanding water and sewer debt to take advantage of a lower rate of interest and acquiring nearly \$2 million in additional funding for capital improvements to the water and sewer infrastructure.

Gilbert said that according to his legal research, there is no problem in borrowing the money and no problem for using the water and sewer funds for storm drains.

The refinancing of the city's debt specifically placed the storm sewer project into the city's bonding mechanism.

City attorney says no legal problems in it

Saying he did not feel there was any legal problem in the project as outlined in the resolution, he added "we can go right ahead and do it."

He noted that if a portion of the project should somehow be overturned, there are still sufficient city reserves to cover that situation.

"I just don't see any legal problem," Gilbert added.

In response to a question from council member Mike Klakken, Gilbert stressed there did not have to be a specific threat to the city's aquifer, but that just protecting it from potential problems, through the storm sewer, especially instead of French drains which let the surface water drain into the groundwater, is enough.

Malesich said that what the city is trying to do "is pretty common sense. Do we need a storm drain? Yes." He also pointed out that the Montana Street South project has brought the storm sewer system up to Helena Street and that the proposed project would connect to it.

"We have researched it. We have a legal opinion we can use the sewer and water money. If we're short we can borrow from the water and sewer and pay it back out of the gas tax money. It can be done. It's not something we just thought up."

Council member Swede Troedsson noted that "if the city attorney has a high confidence level, we should go. We can't continue to let this project be stonewalled by one person (referring to Warner)."

Turner said he talked to a number of people concerning the project and there were only a few questions. The rest, he said, were definitely in favor. "We need to move forward with the wishes of the people. We need to move forward and pull our heads out of the sand."

When the vote was taken, both Turner and Warner voted no, and the other six members of the council voted to proceed with the project.

In a related matter, a special improvement district, which had

been proposed earlier this year and defeated by having over 50 percent of the property owners protest it, was put back on the table.

That district, known as Special Improvement District 36, would have originally provided sidewalks on the east side of Montana Street South, along with new, period-style street lights and some landscaping.

After a hearing process, the district was turned down by the property owners on the east side of the street.

A second attempt, without the lights and landscaping and with some differences in the actual locations of the sidewalks, was floated a number of weeks ago. As of last week's meeting, Malesich said, property owners of 80 percent of the affected district's lineal footage had signed a petition to establish a district under the changed description.

A key element would be the elimination of the lights, about one third of the total cost of the project, but with the installation of conduit under the sidewalk to allow easy installation of lights in the future. The present lights, on wooden poles, would be kept in place and used to light the area.

Klakken argued that he did not feel that the district had changed "very much" and Warner stressed that "we are protected by the statutes" of running the district again before six months had passed, which would be in mid-January.

"We are personally liable," Warner said, a statement that had been refuted by Gilbert.

Councilmember Frank Mastandrea challenged Warner, noting "we have a legal opinion from our attorney. Do you have an opposing legal opinion? We have been told it is legal."

Malesich again asked Gilbert his opinion on the issue, asking him "Do you feel it is different?"

Gilbert said he had reviewed the statutes, and looked at a number of cases of similar issues. There have been some where similar situations existed and where the decision was favorable to the property owners who want to have the new district approved.

Only affected property owners, he stressed, would have a legal right to sue in the matter, he added. A public hearing will be held and the property owners will have a right to protest, as they did before.

Council okays SID for sidewalk improvements

Malesich said he went with a petition to show the approval of the property owners because, he told the council "I didn't think you take my word for it."

One of those property owners, Jeri Wagner, told the council she felt the project had been greatly changed, and that she had changed her opinion because of those changes, and had signed the petition to establish the district.

Waiting to do the project later, Malesich said, and missing the opportunity to bid the sidewalk project with the street project, which would happen if the city waited until January to begin proceedings on an SID, would cost the property owners form \$16-20,000 more.

When the vote was taken on continuing action on the SID, Warner abstained and Klakken voted "no." All other council members voted for the issue.

The city will send out notifications to property owners about the SID, and set a time for a hearing on the issue.

Malesich expressed his pleasure in finally getting both projects further along in the process, and stressed the importance of both the street and storm sewer and the Special Improvement District to improve the sidewalks.

He said, later that the city will continue with efforts to work on grants for lighting and sidewalk improvements on the west side of the street, which is primarily owned by the railroad and leased by the city and county. He also said work is continuing on developing parking in the area of the old Gupta Building.

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