

METROPOLITAN SERVICE DISTRICT

BOARD OF DIRECTORS

MINUTES OF JULY 23, 1976 MINUTES

BOARD MEMBERS IN ATTENDANCE

Ray Miller, Chairman
 Robert Schumacher
 Charles Becker
 James Robnett
 Mel Gordon
 Connie McCready

BOARD MEMBERS NOT IN ATTENDANCE

Miller Duris, Vice Chairman

ADVISORS IN ATTENDANCE

Dean Gisvold, Attorney
 Bob Brown, DEQ
 Dave Phillips, Solid Waste Committee

GUESTS IN ATTENDANCE

List attached.

STAFF IN ATTENDANCE

Charles Kemper
 Warren Iliff
 Merle Irvine
 John Wilson
 Jean Woodman

There being a quorum present, the Board considered the following items of business:

76-613 MINUTES

Commissioner Gordon moved to approve the minutes of the July 9, 1976, Board meeting. Councilman Becker seconded the motion. The motion carried unanimously by roll call vote. (Commissioner McCready was not present.)

METROPOLITAN SERVICE DISTRICT
 BOARD APPROVAL

NO. 76-629 DATE 8-13-76

	YES	NO	ABST.
BECKER	/		
DURIS	/		
GORDON	/		
MCCREADY			
ROBNETT	/		
SCHUMACHER			
MILLER, CHAIRMAN			

Jean Woodman
 Clerk of the Board

76-614 PUBLIC COMMUNICATIONS

Mr. Phillips, Chairman of the Solid Waste Committee, approached the Board requesting consideration of the following Solid Waste Committee motion: "Recommendation that the members of the Board attend the MSD Solid Waste Committee meetings at their discretion." Mr. Phillips stated that the committee felt their input on issues brought before them was not reaching the Board, and that joint meetings would develop better rapport and understanding between the Board and committee. In answer to Commissioner Gordon's question to specific issues that bothered the committee, Mr. Phillips stated the committee's feelings to be that the Board did not fully understand the reasoning behind certain recommendations which resulted in the Board's not accepting and approving the committee's recommendations.

Mr. Kemper stated that the problem the committee had might be one of recognition for their efforts, and while he did not feel it was necessary for the Board to attend individual meetings, joint meetings might be arranged for major or controversial matters.

Commissioner Schumacher again asked the question for a specific Board judgment the committee was questioning, and Mr. Phillips stated that it was the Washington County Transfer System issue that had resulted in the committee's request. Commissioner Miller indicated that he had not agreed with the committee's recommendation on the W.C.T.S. issue and felt that the action taken by the Board was appropriate. He also questioned the effectiveness of the SWC meetings attended by the Board, but felt that an occasional joint meeting might be appropriate.

76-615 CASH DISBURSEMENTS

Mr. Kemper reviewed the listed cash disbursements before the Board for approval, explaining the coding system and the problem before the Board of approving a large number of checks from many different departments within MSD. Commissioner Gordon felt a check-off system should be set up with each department head approving items for payment and stating that they are within the department budget.

Commissioner Schumacher moved to approve payment of Check No. 1048 through 1243 and including Check No. 486 under the 75-76 system, all in the total amount of \$179,897.97; and direct staff to present future disbursements by check numbers and total amounts, approved by the department heads and within that departments budget. Commissioner Gordon seconded the motion. The motion carried with Councilman Becker voting against. (Commissioner McCready was not present.)

76-616 ORGANIZATIONAL AND MANAGEMENT STRUCTURE - Sub-Committee Report

Commissioner Gordon, a member of the Board Sub-committee, reviewed the committee's findings and recommendations for structuring of the MSD's management system. In discussion of the report, the Board agreed with the recommendations, however, felt that at some time in the future a general manager position would have to be filled. There was also some discussion on solving problems arising between Board meetings, and it was agreed that most of them could be handled under the MSD administrative procedures and with consultation with the MSD Chairman.

Commissioner Gordon moved to accept the Board Sub-committee recommendations dated July 22, 1976, as contained in the Board staff report, as an interim management program. Commissioner Schumacher seconded the motion. The motion carried unanimously by roll call vote. (Commissioner McCready was not present.)

76-617 PERSONAL SERVICES CONTRACT PROPOSALS - Accounting Management Controls

Mr. Kemper stated that staff had received three proposals on MSD's request for bids for accounting management controls. These proposals were received from Coopers and Lybrand, Arthur Young and Company, and Haskins and Sells accounting firms. The proposals were evaluated by three staff members, Charles Kemper, Merle Irvine and John Wilson, and the recommendations outlined on page 12.4 of the staff report were the results of this evaluation. In total costs the staff report listed Arthur Young at \$0, Coopers and Lybrand at \$3,500 and Haskins and Sells at \$8,500. Mr. Kemper stated that while the \$0 amount proposed by Arthur Young was tempting, the firm did not respond to the amount of time they will spend on the work scope, making the Arthur Young proposal difficult to evaluate. Staff recommendation was to select Coopers and Lybrand to perform accounting management controls work.

Motion No. 76-617.A: Councilman Becker moved to approve Coopers and Lybrand to do accounting management controls work for MSD at a total cost of \$3,500. Commissioner Schumacher seconded the motion.

In discussion of the motion, Mr. Dells, of Arthur Young, addressed the Board stating that he had discussed doing some management control work for the Zoo with Mr. Iliff, prior to responding to

the request for bids, at a \$0 price, and they felt that the additional work requested would not affect their quoted cost. Commissioner Gordon asked Mr. Dells why Arthur Young did not respond to the man hours request, and Mr. Dells stated that he had not been directly involved and did not know whether all three of the firms had received the same lead time; however, he felt Arthur Young could comply with all of the work scope requirements. Mr. Kemper felt that of the three work scopes presented, Haskins and Sells had the best but at the highest price; Coopers and Lybrands work scope quoted \$3,500 and Arthur Youngs \$0 figure had an impact on both of the other quotes. He felt that the evaluation team could not quantify the Arthur Young proposal at a \$0 figure and with the specifications not responded to; and, therefore, recommended Coopers and Lybrand as the awarded firm. Commissioner Gordon felt the possibility of using Arthur Young and Company should be explored more thoroughly.

The question was called on motion 76-617.A and the motion carried by roll call vote with Commissioner Gordon abstaining.

Motion 76.617.B: Mayor Robnett moved to add development of a detailed accounting procedure manual to the Coopers and Lybrand work scope with an addition cost of up to \$1,200. Commissioner McCready seconded the motion. The motion carried unanimously by roll call vote. (Commissioners Schumacher and Gordon were not present for the vote.)

Motion 76.617.C: Councilman Becker moved to direct Coopers and Lybrand to prepare a contract within the proposal framework and after legal counsel review authorize the Chairman's signature. Mayor Robnett seconded the motion. The motion carried unanimously by roll call vote. (Commissioners Schumacher and Gordon were not present for the vote.)

76-618 OFFICE EQUIPMENT MAINTENANCE CONTRACT

Mr. Kemper stated that staff had received three bids for maintenance of the MSD office equipment, one from Gehri's Services at \$491.15 per year; one from Portland Typewriter for \$712.80 per year; and one from Imperial Office Machines at \$693.60 per year.

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Staff recommendation was to approve a contract with Gehri's Services at \$491.15. Mr. Wilson, of the Zoo staff, stated that Mr. Gehri was presently under contract with the Zoo and was doing a satisfactory job. Commissioner McCready suggested that staff contact the City's purchasing agent for quotes on this type of services.

Councilman Becker moved to approve Gehri's Service Co., for MSD office equipment maintenance at \$491.15 per year. Commissioner Schumacher seconded the motion. The motion carried unanimously by roll call vote. (Commissioner Gordon was not present.)

76-619 ORDINANCE NO. 38 - Action

Commissioner Miller stated that Ordinance No. 38, adopting a program of drainage management for the Johnson Creek Drainage basin, was before the Board for action and public testimony would not be accepted. The Board has received testimony from three public hearings and several public meetings and had the testimony under advisement. Mr. Hankee reviewed the findings of the staff stating that the Johnson Creek Program was out of funds and if the Board adopted the ordinance, there would not be money available to seek implementation. Mr. Gisvold gave oral response to legal questions asked under MSD Legal Counsel Memo No. 124 dealing with legalities of the user fee.

Mr. George Beeler, Professor at Reed College, approached the Board questioning the District's authority to place a user fee against his property if he did not contribute to the flooding of the creek. Commissioner Miller called Mr. Beeler's question out of order, explaining that adequate hearings had been held to answer these questions.

Commissioner McCready suggested, in response to staff's statement that implementation money was not forthcoming, that the District consider a District-wide user fee to pay for drainage projects. She agreed with staff's feeling that state funding would not be available without the Water Resources Board's sponsorship, and a program of this sort might be a viable alternative. Commissioner Schumacher felt the ordinance should be adopted and available in the event funding becomes available, and that adopting the ordinance did not mean the Board would have to move forward to implementation. Commissioner Gordon, however, was against adoption of Ordinance No. 38, in that money was not available, the public

was against the user fee, and a long term program was not available. Mayor Robnett agreed with Commissioner Schumacher that the ordinance should be adopted with the Board continuing to seek implementation funding. Mr. Hankee indicated that a concern from the public was adopting the ordinance and at some time in the future billing residents for the service when it was not expected. Mr. Gisvold answered that under Section 9.A. the service charge would be levied yearly by ordinance which would require the usual public hearings and adequate notice. There was some discussion as to the possibility of federal grant under the Public Works Employment Act and the difficulty in meeting the required construction specifications. Commissioner McCready proposed requesting funds from the local jurisdictions to develop a grant application to the State or to the Federal Government.

Motion No. 76-619.A: Commissioner Schumacher moved to adopt Ordinance No. 38. Mayor Robnett seconded the motion. The motion carried by roll call vote with Commissioner Gordon voting against adoption.

Motion No. 76-619.B: Commissioner McCready moved to direct staff to investigate the cost and man-hours for preparation of a grant request for implementation of Ordinance No. 38; and request this funding from the local jurisdictions. Commissioner Schumacher seconded the motion. The motion carried by roll call vote with Commissioner Gordon voting against the motion.

76-620 ORDINANCE NO. 39 - SECOND PUBLIC HEARING

An ordinance adopting standards of exemptions for operation of solid waste disposal sites.

Commissioner Miller opened the public hearing for second consideration of Ordinance No. 39 asking if everyone in the audience had a copy of the ordinance. There was no response.

Motion 76-620.A:

Commissioner McCready moved to read Ordinance No. 39 by title. Commissioner Gordon seconded the motion. The motion carried unanimously by roll call vote. (Commissioner Schumacher was not present.)

The clerk read the ordinance title.

Mr. Irvine presented proposed amendments to Ordinance No. 39 as yet not incorporated into the ordinance. In reviewing these amendments he indicated legal counsel's recommendation to eliminate item 3.1.6 of the amendments in its entirety. Staff felt the word "flammable" could not be properly defined and that "explosive material" was already covered in the ordinance.

Mr. Irvine stated that the ordinance had been reviewed by the Solid Waste Committee with the recommendation of adoption with the proposed amendments. He also stated that no comments were received from the landfill operators on Ordinance No. 39.

Mr. Phillips addressed the Board representing the MSD Solid Waste Committee, stating that the committee had spent several hours on the ordinance and was in favor of its adoption as amended. He also stated that the committee had no problem with eliminating section 3.1.6 of the amendments.

Commissioner Miller requested public testimony and there was no response.

Motion 76-620.B:

Commissioner Gordon moved to adopt Ordinance No. 39. Commissioner McCready seconded the motion.

In discussion, Commissioner McCready questioned whether the ordinance addressed individual judgment on mixed loads entering the landfill, and Mr. Gisvold stated that it did. Commissioner McCready also questioned enforcement of the ordinance. Mr. Brown, of DEQ answered that DEQ had recently amended their permitting system to alleviate most of the problems of mixed loads and that demolition sites were excluded from taking commercial loads but could receive industrial wastes.

Mr. Gisvold recommended exclusion of the words "subject to meeting DEQ and local jurisdictions requirements" under Section 4.1 and 4.2 of the amendments. He felt the language was too broad and that it was adequately covered under Ordinance No. 32; and that it was part of the theory being implemented during Phase I affected by the present litigation on the question of the service fee. Mr. Gisvold indicated that if the Solid Waste Committee did not feel the question was adequately dealt with, MSD could again review Ordinance No. 32 for a solution. Another amendment proposed by Mr. Gisvold was a change from "Manager" to "Director" with a definition of "Director".

Mr. Phillips addressed the Board stating that the Solid Waste Committee felt the questioned wording under 4.1 and 4.2 dealt with what the permittee would be allowed to accept during the different phases and Ordinance No. 32 only with the issuance of permits; and that it was the committee's intent to include the restriction during Phase I and II and eliminate it during Phase III. The committee wanted to include cooperation between MSD and the local jurisdictions, and that Ordinance No. 32 was not strong enough to force this cooperation.

Motion 76-620.C:

Commissioner McCready moved to amend motion No. 76-620.B for adoption of Ordinance No. 39 to include the following ordinance amendments: elimination of Section 3.1.6 and renumbering of this section; the elimination of Section 3.4 definition of "Manager" and the inclusion of "Director" and its definition. Commissioner Gordon seconded the motion. The motion carried unanimously by roll call vote. (Commissioner Schumacher was not present.)

Motion 76-620.D:

Commissioner McCready moved to amend motion No. 76-620.B for adoption of Ordinance No. 39 to eliminate the language "subject to meeting DEQ and local jurisdictions requirements." under section 4.1 and 4.2. Commissioner Gordon seconded the motion.

Under discussion Commissioner Gordon and Mayor Robnett were concerned with eliminating this wording and felt it should be further discussed.

The question was called on motion 76-620.D for amendment and the motion carried with Commissioner Gordon and Mayor Robnett voting against. (Commissioner Schumacher was not present.)

Motion 76-620.E: Mayor Robnett moved to amend Motion No. 76-620.B for adoption of Ordinance No. 39 to include the remaining amendments presented by staff and attached to the meeting staff report. Commissioner McCready seconded the motion. The motion carried unanimously by roll call vote. (Commissioner Schumacher was not present.)

The question was called on motion 76-620.B for adoption of Ordinance No. 39 and the motion carried unanimously by roll call vote. (Commissioner Schumacher was not present.)

76-621 ORDINANCE NO. 42 - SECOND PUBLIC HEARING

Commissioner Miller opened the public hearing to give second consideration to Ordinance No. 42, an ordinance establishing procedures for contested case hearings. Commissioner Miller asked if there was anyone in the audience that wished a copy of the ordinance, and there was no response.

Motion 76-621.A:

Councilman Becker moved to read Ordinance No. 42 by title only. Commissioner Gordon seconded the motion. The motion carried unanimously by roll call vote. (Commissioner Schumacher was not present.)

The clerk read Ordinance No. 42 by title.

Mr. Gisvold reviewed the ordinance amendments proposed by staff since the first public hearing.

Commissioner Miller asked if there was anyone in the audience that wished to speak to Ordinance No. 42. There was no response.

Motion 76-621.B:

Mayor Robnett moved to adopt Ordinance No. 42. Councilman Becker seconded the motion. The motion carried unanimously by roll call vote. (Commissioners Schumacher and Gordon were not present.)

76-622 INSURANCE - VOLUNTEER WORKERS ACCIDENT

Mr. Wilson reviewed the volunteer workers programs in operation at the Zoo and the problems involved in insuring these volunteers with accident insurance. Due to the difference in cost between State Accident Insurance Fund coverage and private coverage through the MSD insurance agent, staff was recommending coverage through Fred S. James & Co.

Mayor Robnett moved to approve purchasing \$2,500 in accidental death and dismemberment and \$2,500 maximum medical insurance from Fred S. James & Co., for the Zoo volunteer workers, at an annual premium of approximately \$1,300. Commissioner McCready seconded the motion. The motion carried unanimously by roll call vote. (Commissioners Schumacher and Gordon were not present.)

76-623 NATIONAL ENDOWMENT FOR THE ARTS - Graphics Design Grant Proposal

Mr. Iliff reviewed the National Endowment for the Arts matching grant program funded under the title "Architecture and Environment Arts", stating it would provide \$20,000 to MSD for design work. Mr. Iliff was asking for approval to apply for the matching grant.

Commissioner McCready moved to approve developing a graphics design grant proposal and appropriating \$7,500 from the Zoo fund to seek a National Endowments for the Arts matching grant. Councilman Becker seconded the motion. The motion carried unanimously by roll call vote. (Commissioners Schumacher and Gordon were not present.)

76-624 CHIMPANZEE EXHIBIT CONSTRUCTION BUDGET

Mr. Iliff reviewed the Zoo proposal for an exhibit to replace the present indoor enclosures housing 12 chimpanzees. He stated that the funds were within the budget, but that the design and construction funding estimates would vary. A portion of the proposed budget for the exhibit was a trip to San Francisco for two keepers, Dave Thomas and Maryanne Yeutter at an approximate cost of \$450. Commissioner McCready felt the project would be excellent for the Zoo and was in favor, however, she questioned the figure of \$450 for the San Francisco trip.

Commissioner McCready moved to approve the proposed Chimpanzee exhibit construction budget of approximately \$200,000 and authorize the Zoo Director to proceed with conducting the preliminary studies and developing the initial design. Councilman Becker seconded the motion. The motion carried unanimously by roll call vote. (Commissioners Schumacher and Gordon were not present.)

OTHER BUSINESS:

76-625 Zoo Meeting

Mr. Iliff invited the Board to attend a Zoo tour on July 27, 1976, at 9:00 A.M., to investigate and determine methods for making the Zoo barrier-free.

Mr. Iliff also requested direction on the appropriate method for obtaining travel authorization on Zoo matters. Commissioner Miller stated that the Board would provide prior approval to all necessary travel expenses outside the immediate area.

76-626 Savings Account Signatures

Mr. Kemper requested signature authorizations on all MSD savings accounts.

Commissioner McCready moved to approve in concept the signatures of Charles Kemper, Warren Iliff and Merle Irvine on MSD savings accounts and direct staff to obtain a recommendation from the consultants on management accounting on how this practice should be handled, at which time the Board will reconsider the savings account signatures. Councilman Becker seconded the motion.

The staff was directed to investigate investments with Clackamas County and the City of Portland.

The question was called and the motion carried unanimously by roll call vote. (Commissioners Schumacher and Gordon were not present.)

76-627 Oregon Recycling and Disposal Company

Mr. Gisvold discussed the Scrap Tire Processing permit violation of Larry Burright, of Oregon Recycling and Disposal, and the steps being taken by staff and DEQ to prosecute the violation. There was some discussion as to appointing a hearings officer if termination of Oregon Recycling and Disposal's permit leads to a contested case hearings, and it was agreed that Mr. Gisvold would act in this capacity.

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76-628 Executive Session

The Board retired to Executive Session under the authority of ORS 192.660 (3) to discuss labor negotiations for the Zoo Concession labor union No. 49.

The Board reconvened in public body at 5:30 P.M. to direct staff to continue negotiations with the Concession Union and to inform the union that the terms as stated by the union were not acceptable to MSD.

The meeting adjourned at 5:30 P.M.