

MSD BOARD OF DIRECTORS
 MINUTES OF MAY 13, 1977 MEETING

BOARD MEMBERS IN ATTENDANCE

Ray Miller, Chairman
 Sidney Bartels
 Connie McCready
 Mel Gordon
 James Robnett

BOARD MEMBERS NOT IN ATTENDANCE

Robert Schumacher
 Lyle Salquist

ADVISORS IN ATTENDANCE

Dean Gisvold, Attorney
 Bob Brown, DEQ

GUESTS IN ATTENDANCE

List attached.

STAFF IN ATTENDANCE

Charles C. Kemper
 Merle Irvine
 Cordell Ketterling
 Jean Woodman

METROPOLITAN SERVICE DISTRICT
 BOARD ACTION
 NO. 77-819 DATE 5-29-77
 YES NO ABST.

| | YES | NO | ABST. |
|------------------|-------------------------------------|--------------------------|--------------------------|
| BARTELS | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| GORDON | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| MCCREADY | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ROBNETT | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| SALQUIST | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| SCHUMACHER | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| MILLER, CHAIRMAN | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Jean Woodman
 Sec'y of the Board

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

77-807 MINUTES

Commissioner Gordon moved to approve the minutes of April 22, 1977, as submitted. Mayor Robnett seconded the motion. The motion carried unanimously by roll call vote.

77-808 PUBLIC COMMUNICATIONS

Commissioner Miller requested comments from the public on matters not listed on the meeting agenda and there was no response.

77-809 CASH DISBURSEMENTS

Councilman Bartels moved to approve payment of Checks No. 3148 through 3307 in the total amount of \$52,540.14. Commissioner Gordon seconded the motion. The motion carried unanimously by roll call vote.

77-810 ORDINANCE NO. 50 - FIRST PUBLIC HEARING

Commissioner Miller opened the public hearing on Ordinance No. 50, an ordinance establishing rules and regulations governing civil penalties.

Commissioner Miller asked if there was anyone in the audience that wished a copy of the ordinance and did not have one. There was no response.

Motion 77-810.A:

Councilman Bartels moved to read Ordinance No. 50 by title only. Commissioner Gordon seconded the motion. The motion carried unanimously by roll call vote.

The clerk read the ordinance title.

Mr. Irvine reviewed the ordinance by sections. Commissioner Gordon question Section 6 referring only to a dollar amount on penalty. Mr. Gisvold stated that the monetary penalty set by MSD would be in addition to penalties set by state statutes. In discussion of Section 5, Mr. Gisvold stated that MSD had to have standards for determining civil penalties. There was some discussion on recovering the cost of damage and the legal process for contested case hearings.

Commissioner Miller requested public testimony. There was none.

Motion 77-810.B: Commissioner Gordon moved to set May 27, 1977, as the second hearing date for Ordinance No. 50. Councilman Bartels seconded the motion. The motion carried unanimously by roll call vote.

77-811 INSURANCE AGENT OF RECORD

Mr. Irvine reviewed the state law requiring public agencies to obtain insurance contracts by either requesting proposals from licensed insurance agents for specific insurance contracts, or by appointing an Agent of Record. He stated that staff had requested proposals from insurance agencies for obtaining an MSD Insurance Agent of Record. Ads had been placed in the Insurance Week, a weekly magazine, and in the Daily Journal of Commerce, and three proposals had been received, one from Fred S. James, one from Corroon & Black, and one from Frank B. Hall. Mr. Irvine stated that the three proposals had been reviewed by staff using the consultant selection administrative procedure, and staff's recommendation was to select Fred S. James as Agent of Record.

Commissioner Gordon questioned the criteria used by staff to determine their recommendation, and Mr. Irvine reviewed this for him indicating that if the Board wished further review, the Agent of Record could be awarded at the next Board meeting. Commissioner Gordon was satisfied with the selection process and suggested that the information be made public to the agents involved.

Commissioner Gordon moved to appoint Fred S. James & Co., Inc., as Insurance Agent of Record for MSD for a term of three years. Commissioner McCready seconded the motion. The motion carried unanimously by roll call vote.

77-812 ORDINANCE NO. 47 - FIRST PUBLIC HEARING

Commissioner Miller opened the public hearing to give first consideration to Ordinance No. 47, an ordinance establishing an areawide solid waste management and operation program; establishing procedures for the issuance of certificates for the operation of waste disposal sites; providing for orderly and beneficial flow of solid wastes; providing for penalties and administration and enforcement; providing for collection of fees; repealing a prior ordinance and prescribing an effective date.

Motion 77-812.A: Commissioner Gordon moved to read Ordinance No. 47 by title only. Commissioner McCready seconded the motion. The motion carried unanimously by roll call vote.

Commissioner Miller asked if there was anyone in the audience that did not have a copy of the ordinance and wished one. There was no response.

The clerk read the ordinance title.

Mr. Irvine reviewed the ordinance by section and there was some discussion by the Board on the definition of "transfer station"; whether "slash" was a processable waste; and the variances provided in the system. Mr. Gisvold felt that some language should be added under Section 23 setting standards for variance. This will be prepared for the next meeting. There was some discussion on Section 25 on the time of day for inspection of the sites.

Mr. Irvine stated that copies of the ordinance had been sent to landfill operators and had been discussed in two Solid Waste Committee meetings with the committee's recommendation for adoption.

Commissioner Miller requested public testimony, and the following was received:

1. Ronald Watson, Attorney
Land Reclamation, Inc.

Mr. Watson complained that again he had not had the opportunity of reviewing the ordinance prior to the public hearing. Mr. Irvine stated that a second hearing would be scheduled, and that the ordinance had been sent to Land Reclamation earlier, and considered by the Solid Waste Committee twice with notices of these meetings sent to Land Reclamation. Commissioner Miller suggested that Mr. Watson submit his comments in writing to the MSD staff prior to the next Board meeting.

2. Ron Frashour
Independent Paper Stock Co.

Mr. Frashour questioned the intent of Section 8.A.6, and whether this meant paper could not be recycled. Mr. Irvine stated that the intent was that if it was not mixed and was source separated, it could be processed without going through an MSD facility. The exemption is listed under section 8.B.5. The section will be amended to make this clear.

Mr. Frashour indicated that his industry was concerned that the exemptions were not clear and later Boards might not interpret the language as it was intended. Commissioner Miller requested that Mr. Frashour submit his proposed amendments in writing prior to May 27, 1977.

3. Vern Wheelwright
14150 SW 144
Tigard, Oregon

Mr. Wheelwright, as a member of the waste paper industry, was also concerned with the exemption wording and requested that it be amended. The Board suggested that he submit his request in writing to staff.

4. Jane Cease
DEQ Recycling

Mrs. Cease was concerned that source separation be provided for in the ordinance, and felt the concern was similar to the waste industry's comments. She will submit comments to staff in writing.

5. Norm Hendricks
Consolidated Fibers

Mr. Hendricks felt that definition of terms would be the best solution for identifying recyclable commodities. He will submit a rewording of section 5.R in writing.

Commissioner Miller requested further public testimony. There was none.

Motion 77-812.B: Commissioner Gordon moved to set May 27, 1977, as the second hearing date for Ordinance No. 47. Commissioner McCready seconded the motion. The motion carried unanimously by roll call vote.

77-813 ORDINANCE NO. 48 - FIRST PUBLIC HEARING

Commissioner Miller opened the public hearing to give first consideration to Ordinance No. 48, an ordinance establishing rules and regulations for the MSD Solid Waste Program concerning application, issuance, suspension, modification and termination of waste disposal site certificates and establishing minimum requirements for the design, construction and operation of waste disposal sites.

Commissioner Miller asked if there was anyone in the audience that did not have a copy of the ordinance. There was no response.

Motion 77-813.A: Commissioner Gordon moved to read Ordinance No. 48 by title only. Commissioner McCready seconded the motion. The motion carried unanimously by roll call vote.

The clerk read the ordinance title.

Mr. Irvine reviewed the ordinance, stating that the Solid Waste Committee had considered it and recommended adoption.

There was no Board discussion. Commissioner Miller asked for public testimony and there was none.

Motion 77-813.B: Commissioner Gordon moved to set the second hearing date for May 27, 1977. Councilman Bartels seconded the motion. The motion carried unanimously by roll call vote.

77-814 ORDINANCE NO. 49 - FIRST PUBLIC HEARING

Commissioner Miller opened the public hearing to give first consideration to Ordinance No. 49, an ordinance establishing user fees for Phase I of the MSD Solid Waste Management Program, repealing prior ordinances, declaring an emergency and prescribing an effective date.

Commissioner Miller asked if there was anyone in the audience that did not have a copy of the ordinance. There was no response.

77-814.A: Commissioner Gordon moved to read Ordinance No. 49 by title only. Councilman Bartels seconded the motion. The motion carried unanimously by roll call vote.

The clerk read the ordinance title.

Mr. Irvine reviewed the ordinance and indicated an amendment of the user fee from 17¢ per cubic yard non-compacted to 16¢ per cubic yard. Commissioner Gordon questioned the assurance that the fees would be adequate for financing the program. Mr. Irvine stated that the amount was the best that could be projected and staff felt it was sufficient.

1. Leanne MacColl
League of Women Voters

Ms. MacColl questioned whether the public had been informed of the proposed increase in the collection bills. Mr. Irvine reviewed the public information process being conducted by MSD

with signs posted at the landfills, and brochures printed to be handed out to the collector's customers.

2. Ronald Watson, Attorney
Land Reclamation, Inc.

Mr. Watson requested assurance that the user fee could be passed on to the operator's customers, as the St. Johns Landfill was locked into their fee structure and could not pass this on. The Board members stated that they felt the fee should be passed on, however, they did not have the authority to tell the jurisdictions to do this. Commissioner McCready suggested that Land Reclamation present their case to the City Council.

Commissioner Miller requested further testimony and there was none.

77-814.B: Commissioner Gordon moved to set May 27, 1977, as the second hearing date for Ordinance No. 49. Councilman Bartels seconded the motion. The motion carried unanimously by roll call vote.

77-815 PHASE I ENGINEERING DESIGN CONSULTANT SELECTION

Publishers Paper Co., submitted a written report dated May 11, 1977, recommending Teledyne National and Bechtel Incorporated consultants to do Phase I Engineering work on the MSD Solid Waste Program. This proposal is in line with the agreement between MSD and Publishers Paper for construction, operation and Phase I Engineering of the south processing site. Mr. Hal Gordie, of Teledyne National, and Frank Cain, of Bechtel were present to answer questions as presented by the Board. Publishers Paper Co., was also proposing development of a contract with White Weld for financial services on the facility. Teledyne National will provide expertise on the resource recovery system, and Bechtel will act as the architectural engineering consultant. Staff was recommending that the Board concur with Publisher's selections. There was some discussion on the reviewing process in selecting the consultants, and Publishers stated their satisfaction with the process and selection.

Commissioner Gordon moved to approve Publishers Paper Company's selection of Teledyne National, Bechtel, Incorporated, and White Weld for consultants on Phase I Engineering in accordance with Section 3.1 of Contract 77-036 between MSD and Publishers Paper. Commissioner McCready seconded the motion. The motion carried unanimously by roll call vote.

77-816 PHASE I ENGINEERING DESIGN FUNDING

The Board considered staff's request to begin work on Phase I Engineering in light of funding secured through the loan of Pollution Control Bonds by the State of Oregon. There was no discussion by the Board.

Commissioner Gordon moved to authorize the Chairman to notify Publishers Paper Co., to commence with the Phase I Engineering in accordance with Contract 77-036. Councilman Bartels seconded the motion. The motion carried unanimously by roll call vote.

77-817 PHASE I ENGINEERING DESIGN WORK SCHEDULE

Mr. Kemper submitted a progress time schedule for the Phase I Engineering design work on the south processing station.

No action taken.

OTHER BUSINESS

Commissioner McCready moved to consider the specific accounting procedures for collection of user fees under Other Business. Commissioner Gordon seconded the motion. The motion carried unanimously by roll call vote.

77-818 SPECIFIC ACCOUNTING PROCEDURES FOR COLLECTION OF USER FEE (held over from May 6, 1977)

Mr. Ketterling reviewed the testimony received at the May 6, 1977, Board meeting as outlined in the staff report. Mr. Anthony, of Coopers & Lybrand was present to discuss the accounting report and their recommended alternative for accounting for the user fees collected by the landfills. There was some discussion on the cost impact on the operators in obtaining multi-total cash registers, pre-numbered tickets, and employee time in accounting for the fee. Mr. Anthony stated that the costs would vary by landfill, in that some had the required cash registers and pre-numbered tickets. There was also some discussion on the impact of submitting the user fee to MSD on charge customers not collected and at which time an account becomes a bad debt, and a possible credit system if bad debts occur. In discussing the statement by Land Reclamation that their increased costs could not be passed on as per the City contract, Mr. Ketterling cited the section in the City contract

allowing the regulation and operating requirement imposed by MSD. Section IV of the staff report dealt with disclosure of valuable information that might affect the operator's bid in competitive contracts, and Mr. Gisvold cited the public records law, and the exemption of ORS 192.500(1)(E) requiring a third party to demonstrate the need for disclosure. This objection had been raised by Land Reclamation at the May 6, 1977, meeting. The City contract on St. Johns is also subject to the public records law.

Commissioner Miller requested public testimony, and the following persons approached the Board:

1. Ben Middleton, Accountant
Land Reclamation, Inc.

Mr. Middleton submitted written comments on the accounting procedures, dated May 13, 1977, stating that he felt the present system was sufficient. He also stated his problems with a governmental agency dictating to private industry the type of accounting system to be used. Mr. Middleton discussed the problems of payments to MSD on the 20th of the month after the month waste was received, and the impact upon the operator; and also the surprise audits specified by Coopers & Lybrand. Mr. Ketterling again reviewed the purpose behind the 20th date of each month; and stated that the audit was meant only to see that the procedures were being followed properly and would not upset the operator's office routine. Mr. Middleton's report also indicated that Land Reclamation was now using pre-numbered tickets lessening the cost impact of the MSD system.

2. Gene Plew
Land Reclamation, Inc.

Mr. Plew objected to the 20th of the month date for submittal of the user fee to MSD, again citing the problem of delinquent accounts. He also objected to the additional cost of new cash registers. Commissioner Miller stated that the Board would do what they could to lessen costs of the system on the operator.

Commissioner Miller requested further testimony and there was none.

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Mayor Robnett moved to approve staff recommendation to adopt the specific accounting procedures for collection of the MSD user fee recommended by Coopers & Lybrand, and direct the staff to incorporate these specific procedures in Ordinance No. 47, and prepare the necessary manuals, forms, and instructions to the landfill operators for implementation on June 1, 1977. Councilman Bartels seconded the motion. The motion carried unanimously by roll call vote.

There being no further business to come before the Board, the meeting adjourned at 5:30 P.M.