MSD BOARD OF DIRECTORS

PORTLAND WATER BUREAU 1800 SW 6TH AVE. AUDITORIUM

JULY 9, 1976 2:00 P.M.

AGENDA

76-601

MINUTES

76-602

PUBLIC COMMUNICATIONS

ADMINISTRATION

76-603

CASH DISBURSEMENTS

76-604

INSURANCE COVERAGE

76-605

EMPLOYEE BUS RATE REDUCTION BENEFIT

SOLID WASTE PROGRAM

76-606

ORDINANCE NO. 39 - SECOND PUBLIC HEARING

AN ORDINANCE ADOPTING STANDARDS OF EXEMPTIONS FOR OPERATION OF SOLID

WASTE DISPOSAL SITES

76-607

ORDINANCE NO. 42 - FIRST PUBLIC HEARING AN ORDINANCE SETTING FORTH PROCEDURES

FOR CONDUCTING CONTESTED CASE HEARINGS

PURSUANT TO ORS CHAPTER 183

76-608

WASHINGTON COUNTY TRANSFER SYSTEMS AGREEMENT-

HELD OVER

76-609

FINANCIAL CONSULTANT CONTRACT

ZOO PROGRAM

(NO BUSINESS)

OTHER BUSINESS

1220 S.W. MORRISON, ROOM 300, PORTLAND, OREGON 97205 222-3671

July 8, 1976

TO:

MSD Board of Directors

FROM:

MSD STAFF

SUBJECT: STAFF REPORT FOR JULY 9, 1976

SUBMITTED FOR REVIEW AND RECOMMENDED ACTION ARE THE FOLLOWING ITEMS OF BUSINESS:

Page	ACTION RECORD No.	
1	76-601	MINUTES Action - <u>Approve</u> the minutes of June 25, 1976
20	76-602	PUBLIC COMMUNICATIONS Action - Receive comments from the public on items not listed on the meeting agenda
21	76-603	CASH DISBURSEMENTS Action - Approve Vouchers No. through for payment in the total amount of \$

Page ——	Action Record	
22	76-604	INSURANCE COVERAGE Action - Approve staff recommendation
23	76-605	EMPLOYEE BUS RATE REDUCTION BENEFIT Action - Approve 20% discount on Tri-Met bus pass
24	76-606	ORDINANCE NO. 39 - SECOND PUBLIC HEARING Action - <u>Cancel</u> second hearing and <u>reschedule</u> for July 23, 1976
25	76-607	ORDINANCE NO. 42 - FIRST PUBLIC HEARING AN ORDINANCE SETTING FORTH PROCEDURES FOR CONDUCTING CONTESTED CASE HEARINGS PURSUANT TO ORS CHAPTER 183 Action - Conduct public hearing and set July 23, 1976 for second hearing date
26	76-608	WASHINGTON COUNTY TRANSFER SYSTEMS AGREEMENT Action - Take appropriate action
36	76-609	FINANCIAL CONSULTANT CONTRACT Action - Approve White Weld contract subject to legal counsel amendment

76-601 MINUTES

The following pages contain the minutes of the June 25, 1976, Board meeting.

THE STAFF RECOMMENDS APPROVAL OF THE BOARD MINUTES.

76-602 PUBLIC COMMUNICATIONS

This agenda item allows the Board to consider comments from the audience on matters not listed on the meeting agenda.

76-603 CASH DISBURSEMENTS

THE FOLLOWING PAGES CONTAIN A LISTING OF BILLINGS SUBMITTED FOR PAYMENT FROM THE ZOO AND SOLID WASTE PROGRAM FUNDS.

THE STAFF RECOMMENDS <u>APPROVAL</u> OF VOUCHERS NO. THROUGH FOR PAYMENT IN THE TOTAL AMOUNT OF \$

76-604 INSURANCE COVERAGE

THE INLAND MARINE INSURANCE COVERAGE EXPIRES ON JULY 22, 1976. This policy covers the Railroad Equipment valued at \$612,650.00 and Railroad Business Interruption. In addition, insurance coverage for the Elephant Ride Liability expires on July 31, 1976.

In accordance with the Public Contracts and Purchasing Law, notices were published requesting proposals for the above Mentioned insurance coverage.

As of July 8, 1976, proposals have been received from Fred S. James & Co. and Frank B. Hall & Co. A comparison of the premium cost is shown on the following table.

COVERAGE	FRED S. JAMES	FRANK B. HALL
RAILROAD EQUIPMENT & BUSINESS INTERRUPTION	\$1,622.00	\$2,640.00
ELEPHANT RIDE LIABILITY	\$1,050.00	\$1,125.00
TOTAL	\$2,672.00	\$3,765.00

BASED ON THE EXTENT OF COVERAGE, DEDUCTIBLES AND ANNUAL PREMIUMS, IT IS THE STAFFS RECOMMENDATION TO ACCEPT THE PROPOSAL SUBMITTED BY FRED S. JAMES & CO.

METROPOLITAN SERVICE DISTRICT

BOARD APPROVAL

NO. 26-604 DATE 7-9-26

YES NO ABST.

DURIS
GORDON
MCCREADY
ROBNETT
SCHUMACHER
MILLER, CHAIRMAN

Clerk of the Board

- 22 -

76-605 EMPLOYEE BUS REDUCTION BENEFIT

IN 1975, THE ZOOLOGICAL BOARD APPROVED PROVIDING AN EMPLOYEE DISCOUNT ON TRI-MET BUS PASSES. THIS DISCOUNT AMOUNTS TO 20% ON BUS PASSES (MONTHLY) TO ALL EMPLOYEES AND VOLUNTEERS. THE FISCAL IMPACT OF THIS BENEFIT ON MSD WOULD BE APPROXIMATELY \$700/YEAR.

IT WOULD APPEAR THIS BENEFIT SHOULD BE CONTINUED IN ORDER TO RELIEVE PARKING, ENCOURAGE PUBLIC BUS RIDERSHIP TO THE ZOO, AND REDUCE AIR POLLUTION AND NOISE IN THE VICINITY OF THE ZOO. THE BUS DISCOUNT WILL BE CHARGED TO THE DEPARTMENT AND BUDGET ACTIVITY WHERE THE EMPLOYEE WORKS.

THE STAFF RECOMMENDS APPROVAL TO GRANT 20% DISCOUNT ON TRI-MET BUS PASSES FOR MSD EMPLOYEES AND VOLUNTEERS.

	SERVICE DISTRICT	
BOARD /	APPROVAL	
NO 76-605	DATE 7-9-70	P
	YES NO ABST.	
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SCHUMACHER		
MILLER, CHAIRMANY		
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Clerk of the Board	C. Marketinian management come	

76-606 ORDINANCE #39 - SECOND PUBLIC HEARING

AN ORDINANCE ADOPTING STANDARDS OF EXEMPTIONS FOR OPERATION OF SOLID WASTE DISPOSAL SITES.

CANCEL SECOND PUBLIC HEARING AND RESCHEDULE TO JULY 23, 1976.

METROPOLITAN SERVICE DISTRICT. BOARD APPROVAL

NO 76-606	DATE	7 -	9-71	9:
	YES	- NO	A/3ST	
BECKER	/			
DURIS				
GORDON				
McCREADY	/			
ROBNETT	/			
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MILLER, CHAIRMAN	/		_	
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Clerk of the Boar	d		ATTENUE STEED CONTROL	
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76-607 ORDINANCE NO. 42 - FIRST PUBLIC HEARING

AN ORDINANCE SETTING FORTH PROCEDURES FOR CONDUCTING CONTESTED CASE HEARINGS PURSUANT TO ORS CHAPTER 183.

Under separate cover is Ordinance No. 42 which sets forth PROCEDURES FOR CONDUCTING CONTESTED CASE HEARINGS. THE STAFF RECOMMENDS THE BOARD HOLD FIRST PUBLIC HEARINGS AND SET HEARING DATE FOR SECOND PUBLIC HEARING.

76-608 WASHINGTON COUNTY TRANSFER SYSTEMS AGREEMENT - Held Over

This agenda item, by Board direction, has been held over from the June 25, Board meeting. The June 25 staff report, recommendation and agreement are attached. Also attached is an opinion from MSD Legal Counsel.

STAFF REPORT - Washington County Transfer Systems Agreement

LAST APRIL, DAVE MILLER, ON BEHALF OF SEVERAL WASHINGTON COUNTY HAULERS, INDICATED AN INTEREST IN MODIFYING THE TRANSFER STATION CONCEPT PROPOSED FOR WASHINGTON COUNTY IN THE MSD SOLID WASTE MANAGEMENT PLAN. BASED ON THE IDEA THAT MR. MILLER'S MODIFIED CONCEPT COULD HAVE CONSIDERABLE MERIT, THE STAFF WORKED OUT AN AGREEMENT AND STATED OUR WILLINGNESS TO TAKE THE AGREEMENT BEFORE THE BOARD. THE PURPOSE OF THE AGREEMENT WAS TO ESTABLISH SOME ASSURANCES THAT BOTH PARTIES WERE WILLING TO PURSUE THE PROPOSED MODIFICATIONS.

On May 27 the staff again met with Dave Miller and several other Washington County Haulers who informed us that they were forming a corporation called Washington County Transfer Systems, and that they were pursuing the development of two or more mini-transfer stations in lieu of the one station proposed by MSD. Shortly thereafter, with staff encouragement, Washington County Transfer Systems submitted in nearly the same form, the agreement which had been developed by the staff in April.

THE PURPOSE OF THIS REPORT IS TO DEVELOP THE ADVANTAGES AND DIS-ADVANTAGES OF THIS KIND OF AGREEMENT AND PRESENT THE STAFF RECOMMENDATIONS.

ADVANTAGES OF STUDYING REVISION OF TRANSFER STATION CONCEPT

As you may recall, siting of a Washington County facility has been a problem since the beginning of the implementation phase for the Solid Waste Management Plan. The site located near 158th and Merlo Road, and represented in the Grant/Loan Application to the State of Oregon, has received substantial criticism from local citizens, and the Washington County collection industry. These criticisms may be summarized as follows:

- 1. NEARBY RESIDENTS ARE SUSPICIOUS OF ANY GARBAGE-RELATED FACILITY IN OR CLOSE TO THEIR NEIGHBORHOOD.
- 2. Residents along 170th Avenue are concerned about increased garbage related traffic.
- COLLECTORS FEAR THAT ALTHOUGH THE FACILITY MAY BE CENTRALLY LOCATED AND HANDY FOR THE GENERAL PUBLIC TO USE, THE ECONOMICS FOR THE COMMERCIAL TRANSFER OF LARGER LOADS ARE NOT GOOD.
- 4. THE PROPOSED USE IS NOT IN CONFORMANCE TO WASHINGTON COUNTY'S COMPREHENSIVE PLAN.

THESE CRITICISMS ARE NOT NECESSARILY FACT RELATED. THE COLLECTORS CONTENTION THAT THE CONOMICS CANNOT BE JUSTIFIED IN LIEU OF OTHER AVAILABLE ALTERNATIVES MAY BE VALID.

To fully address the criticisms leveled against the Merlo Road Station, the staff needs to analyze the alternative sites and systems proposed in the agreement. Additionally, the support of the Solid Waste Management Plan by the collection industry would help assure the success of the program.

DISADVANTAGES OF ENTERING INTO AGREEMENT WITH WCTS

MSD ACTIVITIES IN SOLID WASTE HAVE BEEN CLOSELY MONITORED AND OFTEN PROTESTED BY THE COLLECTION INDUSTRY. SOME OF THE COLLECTOR'S CRITICISM HAS RESULTED IN COST SAVINGS TO THE SYSTEM; HOWEVER, THE EFFECTS OF SUCH COST SAVINGS MAY HAVE BEEN NEUTRALIZED BY THE COSTLY SCHEDULE DELAYS.

THE STAFF HAS BEEN FAVORABLY IMPRESSED WITH THE INDIVIDUALS WHO HAVE ADVANCED THE REVISED TRANSFER STATION CONCEPT AND WHO APPEAR TO BE THE BOARD AND/OR OFFICERS OF WASHINGTON COUNTY TRANSFER SYSTEMS. THIS FAVORABLE IMPRESSION STEMS FROM A PERSONAL

AWARENESS OF MSD PROBLEMS RECOGNIZED BY OFFICERS OF THIS CORP-ORATION, AND THE MANNER WHICH THEY HAVE GENERALLY DEALT WITH THE DISTRICT.

At the same time, however, these WCTS members allegiance to the Washington County Haulers Association, Portland Association of Sanitary Service Operators and the Oregon Sanitary Services Institute places them in a position that appears to be in conflict with the District's goals and objectives.

ADDITIONALLY, THE STAFF, IN WORKING WITH DAVE MILLER TO DEVELOP THIS AGREEMENT, HAS NOT EVALUATED THE IMPACT OF ENTERING INTO AN AGREEMENT TO NEGOTIATE SOMETHING WHICH FALLS UNDER THE PUBLIC CONTRACT BIDDING LAW. DEPENDING ON THE SITES REQUIRED FOR IMPLEMENTING A REVISED TRANSFER CONCEPT AND OTHER PARTICULARS, AN EXEMPTION UNDER THE LAW MAY BE A POSSIBILITY.

APPARENT CLOSURE OF FRANK'S SANITARY LANDFILL PLACES INCREASED PRESSURE UPON THE DISTRICT TO PROVIDE WASHINGTON COUNTY WITH A FACILITY TO RECEIVE SOLID WASTE. REVISIONS OF THE PLAN AND THE PROCESS OF OBTAINING APPROVALS FROM ALL INVOLVED JURISDICTIONS COULD DELAY THE ABILITY OF MSD TO PROVIDE OR CONSTRUCT SOLUTIONS FOR SOLID WASTE DISPOSAL IN WASHINGTON COUNTY.

FINDINGS

- 1. THE STAFF HAS A SINCERE DESIRE TO WORK WITH THE COLLECTION INDUSTRY ON THE IMPLEMENTATION OF THE SOLID WASTE MANAGE-MENT PROGRAM.
- 2. THE WCTS PROPOSAL FOR ANALYSIS OF THE WASHINGTON COUNTY TRANSFER SYSTEM HAS MERIT.
- 3. WCTS MEMBERS AND OFFICERS ARE IN A DIFFICULT POSITION OF ON ONE HAND PURSUING A COOPERATIVE AGREEMENT WITH THE DISTRICT, BUT ON THE OTHER HAND, SUPPORTING ASSOCIATIONS AND ORGANIZATIONS WHO ADVOCATE THE DISSOLUTION OF THE

DISTRICT THROUGH DELAY AND OTHER MEANS,

- 4. THE PROPOSED AGREEMENT FAILS TO RECOGNIZE ALL OF THE LEGAL IMPLICATIONS.
- 5. REVISIONS TO THE PRESENTLY PROPOSED WASHINGTON COUNTY TRANSFER SYSTEM COULD IMMEDIATELY LIMIT THE ABILITY OF THE DISTRICT TO PROVIDE WASHINGTON COUNTY WITH A SOLID WASTE DISPOSAL SOLUTION.
- 6. IN ORDER TO IMPLEMENT THE PROPOSED MINI-TRANSFER CONCEPT AN AMENDMENT TO THE SOLID WASTE PLAN MUST BE APPROVED BY THE MSD BOARD.

STAFF RECOMMENDATIONS

IF WCTS IS WILLING TO AFFIRM SUPPORT OF THE MSD SOLID WASTE PROGRAM AMENDED TO INCLUDE A MINI-TRANSFER STATION CONCEPT AND NEGOTIATE IN GOOD FAITH, THE MSD BOARD SHOULD APPROVE THE CONCEPT OF THE AGREEMENT AND DIRECT STAFF TO RETURN WITH AN AGREEMENT REFLECTING LEGAL AND OTHER CONCERNS.

AGREEMENT

THIS AGREEMENT Made and entered into this ______
day of June, 1976, by and between METROPOLITAN SERVICE
DISTRICT, a municipal corporation, hereinafter referred to as
"MSD," and WASHINGTON COUNTY TRANSFER SYSTEMS,
INC., an Oregon corporation, hereinafter referred to as "WCTS."
WITNESSETH:

WHEREAS, Pursuant to direction of the Legislative
Assembly of the State of Oregon and state financing, MSD is proceeding with implementation of a solid waste management plan which includes the design, construction and operation of a facility located in Washington County to accept, dispose of and reclaim solid waste, and

WHEREAS, WCTS is a corporation authorized and existing under the laws of the State of Oregon, and under its form of organization the ownership of said corporation is limited to persons, firms and corporations having membership in the Washington County Refuse Disposal Association, Inc., a nonprofit corporation, and

WHEREAS, WCTS proposes that the Washington County facility be designed, constructed and operated at a minimum feasible cost to be determined by the needs and requirements of the plan, and

WHEREAS, To permit adequate consideration by MSD of

said WCTS objective, the parties wish to reduce their intent and understanding to writing by this Agreement.

IN CONSIDERATION of the mutual promises and undertakings of the parties, it is agreed:

(1) MSD agrees to:

- (a) Authorize staff to meet with representatives of WCTS to determine the minimum size, best location or locations and optimum public and private roles for ownership and operation of all parts of the facility.
- (b) Present to Washington County a revised transfer station concept based on tentative agreement of the above with WCTS.
- (c) Seek DEQ approval for the plan modification following county ratification of the revised transfer station concept.
- (d) Seek other local government approvals which may be required following DEQ approval of the revised transfer station concept.
- (e) Consider as a minimum the following size options with regard to the transfer station:
 - i) A full scale operation receiving both public and private deliveries of solid waste initially, or
 - ii) A phased system receiving only public deliveries of solid waste initially, or
 - iii) A phased system receiving only public and some private deliveries of solid waste initially, or

- iv) Several smaller facilities as opposed to one larger station.
- (f) Support the concept that private industry should assume the maximum role for design, construction and ownership of all solid waste facilities within the practical limits of available capital, maintaining a fair rate of return on investment and protection of the public from excessive costs of service.
- Negotiate with WCTS for a franchise (g) agreement to design, construct and operate the approved Washington County facility. The franchise agreement shall be executed upon approval of a transfer station concept and acquisition of all necessary plan change approvals.

(2) WCTS agrees to:

- (a) Provide qualified members of the collection industry to work in good faith with MSD staff to develop a compatible Washington County facility concept in as short a time as possible.
- (b) Provide assistance in seeking Washington County, DEQ and other local government support of the agreed upon Washington County facility concept.
- (c) Provide support to MSD in obtaining any public financing (local or statewide) which may be a part of the mutually agreed upon Washington County facility concept.

IN WITNESS WHEREOF The parties hereto have executed this Agreement on the date first above mentioned.

,	METROPOLITAN SERVICE DISTRICT		
	ByChairman		
Paga Three - Agreement	- 33 -		

HARDY, BUTTLER, MCEWEN, WEISS & NEWMAN (FOUNDED AS CAKE & CAKE-1886) TELEPHONE 228-7321 ATTORNEYS AT LAW HERBERT C. HARDY AREA CODE 503 1408 STANDARD PLAZA JOHN H. BUTTLER DONALD W. MCEWEN ROBERT L. WEISS PORTLAND, OREGON 97204 JONATHAN U. NEWMAN JOHN R. FAUST, JR. BAL PH H. CAKE (1891-1973) JOSEPH J. HANNA, JR. DEAN P. GISVOLD June 23, 1976 NICHOLAS JAUREGUY GEORGE C. REINMILLER ROBERT D. RANKIN (1898-1974) THOMAS L. GALLAGHER, JR. VICTOR W. VANKOTEN ALBERT J. BANNON JOSEPH S. VOBORIL LINDA L. JANIK Mr. Charles C. Kemper Metropolitan Service District 527 SW Hall Portland, Oregon 97201 Re: LCCM 123 - Proposed Agreement with Washington County Transfer System Dear Mr. Kemper: Pursuant to LCCM 123, you have asked us to review the proposed Agreement between the Metropolitan Service District (MSD) and the Washington County Transfer System Inc. (WCTS). This Agreement was prepared by DeMar Batchelor, attorney for WCTS. You asked whether MSD can proceed with this Agreement. Recommendation I recommend that MSD not enter into the Agreement at this time. Discussion The proposed Agreement is subject to the public contract laws of the State of Oregon. As you know, all public contracts are subject to competitive bidding unless exempted by statute or by the Public Contract Review Board. There are no statutes or regulations which exempt this agreement. Thus, it is necessary to obtain a specific exemption from the Public Contract Review Board. The agreement is also premature. It appears to us that the agreement contemplates a change in the Solid Waste Management Plan, which may have significant consequences. Execution of the agreement necessarily implies prior approval of a plan change without the benefit of study and justification for such a change. Further Recommendations In our view, the WCTS proposal is in the same category as the proposals from RRB and CWSI that the Board received with respect to the North Processing Station. I recommend that the staff be - 34 -

Page Two --Mr. Charles C. Kemper June 23, 1976 directed to discuss the concepts envisioned by WCTS in greater detail in terms of its relationship to the solid waste management plan and the cost consequences to the District. There is no legal impediment to the staff discussing the matter with the representatives of WCTS. If the staff feels the concepts have merit, a subcommittee of the Board may also want to explore the WCTS proposal. Very truly yours, HARDY, BUTTLER, MCEWEN, WEISS & NEWMAN DPG:mec

76-609 FINANCIAL CONSULTANT CONTRACT

ATTACHED IS A DRAFT OF A PROPOSED AGREEMENT WITH WHITE, WELD AND Co. AND PRICE-WATERHAUSE TO ASSIST THE STAFF IN NEGOTIATING WITH PUBLISHER'S PAPER OR A PRIVATE FUEL USER.

THE PURPOSE OF THE AGREEMENT IS TO PROVIDE MSD WITH PRIVATE FINANCIAL MECHANISMS EXPERTISE. WHITE, WELD, AND CO. HAS BEEN SELECTED BECAUSE OF THEIR ABILITY TO EVENTUALLY UNDERWRITE THE BONDS FINANCING PRIVATE CAPITAL REQUIREMENTS. THE STAFF, AS RECOMMENDED BY WHITE, WELD AND CO., HAVE INCLUDED PRICE-WATERHAUSE BECAUSE OF THEIR EXPERIENCE IN THE LOCAL AREA.



MSDB ovel 7-9-76

NAME	REPRESENTATION
Bol Brown	DEQ
David Phellips	Clashamor County
MIKE DOWNS	MULTNOMAH COUNTY
John M Wight	City Portland
Josn ancuso	The oregonian
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