

MSD BOARD OF DIRECTORS

CRAG CONFERENCE ROOM C
527 SW HALL
PORTLAND

FEBRUARY 25, 1977
2:00 P.M.

A G E N D A

77-753

MINUTES

77-754

PUBLIC COMMUNICATIONS

ADMINISTRATION

77-755

CASH DISBURSEMENTS

SOLID WASTE PROGRAM

(NO BUSINESS)

ZOO PROGRAM

77-756

CONTRACT 76-029 - MARTIN/SODERSTROM/
MATTESON - CHIMPANZEE/ORANGUTAN
EXHIBIT

77-757

ORDINANCE NO. 45 - FIRST PUBLIC HEARING
AN ORDINANCE PROVIDING ZOO
REGULATIONS

77-758

SEAL POOL COVER BID AWARD

OTHER BUSINESS

MSD BOARD OF DIRECTORS

Crag Office
Conference Room C
527 SW Hall

FEBRUARY 25, 1977
2:00 P.M.

A C T I O N A G E N D A

<u>PAGE</u>	<u>ACTION RECORD NUMBER</u>	
1	77-753	MINUTES Action - <u>Approve</u> the minutes of February 11, 1977
11	77-754	PUBLIC COMMUNICATIONS Action - <u>Receive</u> comments from the public on matters not listed on the meeting agenda
12	77-755	CASH DISBURSEMENTS Action - <u>Approve</u> staff recommendation
13	77-756	CONTRACT 76-029 - MARTIN/SODERSTROM/ MATTESON - CHIMPANZEE/ORANGUTAN EXHIBIT Action - <u>No action</u> required
16	77-757	ORDINANCE NO. 45 - FIRST PUBLIC HEARING AN ORDINANCE PROVIDING ZOO REGULATIONS Action - <u>Conduct</u> public hearing and <u>set</u> second hearing date for March 11, 1977

<u>PAGE</u>	<u>ACTION RECORD NUMBER</u>
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17	77-758
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SEAL POOL COVER BID AWARD

Action - Reject all bids and direct
staff to consider alternative
solutions

OTHER BUSINESS

77-759

EXECUTIVE SESSION

77-753 MINUTES

THE FOLLOWING PAGES CONTAIN THE MINUTES FOR THE MEETING OF
FEBRUARY 11, 1977.

THE STAFF RECOMMENDS APPROVAL OF THE BOARD MINUTES.

77-754 PUBLIC COMMUNICATIONS

THIS AGENDA ITEM ALLOWS THE BOARD TO RECEIVE COMMENTS FROM THE PUBLIC ON MATTERS NOT LISTED ON THE MEETING AGENDA.

77-755 CASH DISBURSEMENTS

CHECKS ISSUED BETWEEN REPORTS:

CHECKS No. 2615 THROUGH 2634 \$ 5,355.60

CHECKS TO BE RELEASED FEBRUARY 25, 1977:

CHECKS No. 2635 THROUGH 2697 21,389.54

MAJOR EXPENDITURES INCLUDE:

COOPERS & LYBRAND (FINAL PAYMENT)	1,316.67
HARDY BUTTLER McEWEN WEISS & NEWMAN	5,999.21
PORTLAND GENERAL ELECTRIC	2,451.15
PACIFIC NORTHWEST BELL	1,454.33

ALL DISBURSEMENTS LISTED ABOVE ARE WITHIN THE ADOPTED MSD
76-77 BUDGET.

THE STAFF RECOMMENDS APPROVAL FOR PAYMENT OF CHECKS NUMBER
2615 THROUGH 2697 IN A TOTAL AMOUNT OF \$26,745.14.

METROPOLITAN SERVICE DISTRICT
BOARD ACTION

NO. 77-755 DATE 2-25-77

	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"/>

John Miller
Chairman of the Board

77-756 CONTRACT 76-029 - MARTIN/SODERSTROM/MATTESON -
CHIMPANZEE/ORANGUTAN EXHIBIT

HISTORY AND PROJECT DEVELOPMENT

1. THE FIRM OF MARTIN/SODERSTROM/MATTESON (MARTIN) DESIGNED AND SUPERVISED CONSTRUCTION ON THE ZOO'S SNOW LEOPARD EXHIBIT MODIFICATIONS DURING FEBRUARY OF 1976.
2. BASED ON THAT EXPERIENCE WITH THIS FIRM, THEIR REPUTATION AND RECOMMENDATIONS FROM OTHERS, AND DISCUSSIONS WITH THEM, A CONTRACT WAS SIGNED ON JUNE 30, 1976, FOR \$8,000 TO DEVELOP A CONCEPTUAL DESIGN FOR A PARTIALLY COVERED SPACE FRAME STRUCTURE (2,000 - 3,750 SQ. FT.) TO HOUSE CHIMPANZEES INCLUDING TWO CAGE AREAS AND A PEOPLE VIEWING/EDUCATION AREA.
3. IN JULY 1976 THE STRUCTURE WAS ENLARGED TO 7,000 SQ. FT., WITH THREE CAGE DIVISIONS (ESTIMATED CONSTRUCTION COST \$285,000).
4. IN SEPTEMBER 1976 THE STRUCTURE WAS ENLARGED TO 10,200 SQ. FT., WITH THE ADDITION OF A HOLDING CAGE BUILDING (ESTIMATED COST \$613,000).
5. IN LIGHT OF THE ABOVE COST ESCALATION, THE ORANGUTANS WERE ADDED TO THE PROJECT IN OCTOBER 1976, INCLUDING ONE OUTDOOR CAGE AREA AND TWO INTERIOR CAGES FOR THE ORANGUTANS.
6. IN OCTOBER 1976 THE CONCEPT DESIGN WAS PRESENTED TO THE ZOO STAFF AND ACCEPTED. NEGOTIATIONS BEGAN ON A CONTRACT WITH MARTIN FOR DESIGN DEVELOPMENT AND CONSTRUCTION SUPERVISION. AT THIS POINT THE COST TO MSD WAS \$8,000 PLUS PARTIAL EXPENSES OF ONE TRIP. MSD RECEIVED SKETCHES AND A MODEL OF THE CONCEPT.
7. NEGOTIATIONS TOOK SEVERAL WEEKS AND COST \$ IN LEGAL FEES TO MSD. THE TERMS OF THE CONTRACT WERE AGREED UPON BY BOTH PARTIES ON DECEMBER 10, 1976. DURING THE NEXT SEVERAL WEEKS PROGRAM REQUIREMENTS WERE DEVELOPED AND THE DESIGN DEVELOPMENT WAS FINALIZED.

8. ON JANUARY 26, 1977, MARTIN MADE A PRESENTATION TO WARREN ILIFF, STEVE McCUSKER AND JOHN WILSON WHICH INCLUDED CONSTRUCTION DETAIL AND A PROBABLE COST ESTIMATE OF \$1,131,287 (COPY ATTACHED). AT THIS POINT MARTIN WAS TOLD TO STOP ALL FURTHER WORK ON THE PROJECT UNTIL FURTHER NOTICE.
9. ON FEBRUARY 11, 1977, MR. ILIFF GAVE A GENERAL REVIEW OF THE PROJECT STATING THE ESTIMATED PROBABLE COST WAS FAR IN EXCESS OF ORIGINAL ESTIMATES. AFTER DISCUSSING THIS ITEM, THE MSD BOARD DIRECTED STAFF TO REQUEST THAT AT LEAST ONE OF THE PRINCIPAL PARTNERS OF THE FIRM COME TO THE NEXT MSD BOARD MEETING FOR INFORMAL DISCUSSION OF THE PROJECT AND ITS COST.

THIS AGENDA ITEM IS FOR INFORMATION ONLY, NO ACTION REQUIRED.

IV. PROBABLE COST ESTIMATE

A. Site Work	\$ 4,440.00	
B. Concrete	119,436.00	
C. Masonry Paving		Alternate 20,000.00
D. Metals		
Space Frame	/ 169,830.00	
Mesh	77,770.00	
Mesh Install	12,210.00	
Misc. Metal	11,100.00	
E. Wood Framing	2,220.00	
F. Moisture/Protection		
Roofing/etc.	4,400.00	
Skylight	18,065.00	
Roof Glazing	179,820.00	
G. Doors/Frames/Glass		
Doors	38,850.00	
H.M. Frames	93,240.00	
Glazing	83,250.00	
H. Finish		
Plaster/Paint	3,885.00	
I. Equipment	5,550.00	
J. Mech./Elect./Plumbing	105,450.00	
K. Landscape Allowance	11,100.00	
Sub Total	\$ 940,656.00	
20% Overhead & Profit	188,131.00	
Construction Total	\$1,128,787.00	
Owners Cost (Printing, Plan Check)	\$ 2,500.00	
PROJECT TOTAL	\$1,131,287.00	

77-757 ORDINANCE NO. 45 - FIRST PUBLIC HEARING

AN ORDINANCE PROVIDING ZOO REGULATIONS.

ON FEBRUARY 11, 1977, THE MSD BOARD CONSIDERED AGENDA ITEM 77-750, "REQUESTS FOR SOLICITATION AT THE ZOO". WITHOUT ESTABLISHED RULES AND REGULATIONS, SUCH REQUESTS AS FROM THE KRISHNA CONSCIOUSNESS ORGANIZATION COULD NOT BE PROPERLY CONSIDERED. AS A RESULT OF THE ACTION TAKEN ON THIS ITEM, THE MSD BOARD DIRECTED STAFF TO DEVELOP AN ORDINANCE THAT WOULD PROVIDE ZOO REGULATIONS. ORDINANCE No. 45 IS PRESENTED UNDER SEPARATE COVER.

THE STAFF RECOMMENDS CONDUCTING THE FIRST PUBLIC HEARING, AND SETTING THE SECOND HEARING DATE FOR MARCH 11, 1977.

METROPOLITAN SERVICE DISTRICT

ORDINANCE NO. 45

An ordinance adopting rules and regulations for the Washington Park Zoo and prescribing penalties for violations.

METROPOLITAN SERVICE DISTRICT

ORDINANCE NO. 45

The Metropolitan Service District ordains:

Section 1: The Governing Body of the Metropolitan Service District of Portland, Oregon adopts the attached rules and regulations for the Washington Park Zoo.

Section 2: The attached rules and regulations may be codified in the Code of the MSD.

Dated this _____ day of March, 1977.

Chairman

WASHINGTON PARK ZOO
RULES AND REGULATIONS

1. General.

These rules and regulations apply to all buildings and grounds of the Washington Park Zoo and to sidewalks and parking lots adjacent thereto, and to all persons entering in or on such buildings, grounds, parking lots and sidewalks.

2. Buildings and Grounds of the Washington Park Zoo.

2.1 Recording Presence. Except as otherwise ordered, Washington Park Zoo buildings and grounds shall be closed to the public after posted visiting hours. Such buildings and grounds, or portions thereof, shall be also closed to the public in emergency situations and at such other times as may be necessary for the orderly conduct of business. Whenever the buildings and grounds or portions thereof are closed to the public for any reason, visitors will immediately leave the premises upon being requested by an authorized individual. Admission to such premises during periods when closed to the public will be limited to authorized individuals who will be required to register and identify themselves when requested by security officers or other authorized individuals.

2.2 Preservation of Property. It is unlawful to destroy, damage, or remove any property belonging to or part of the Washington Park Zoo. Any parcels, portfolios, bags, or containers of any kind may be required to be opened and the contents identified prior to removal from the premises. In order to remove any property from the premises, a properly completed property pass signed by an authorized official of the Washington Park Zoo may be required prior to removal.

2.3 Protection of Zoo Animals. Except for official purposes, no person shall:

- 2.3.1 Kill, injure or disturb any exhibit or research animal by any means except to secure personal safety;
- 2.3.2 Pet, attempt to pet, handle, move, or remove the animals except where expressly permitted;

- 2.3.3 Feed the animals where prohibited by authorized signs;
- 2.3.4 Catch, attempt to catch, trap, remove or kill any free roaming animals inhabiting the premises;
- 2.3.5 Go over, under, between, or otherwise cross any guardrail, fence, moat, wall or any other safety barrier;
- 2.3.6 Except as provided in paragraph 2.3.3, throw any object or material at any animal or into any animal enclosure or exhibit area;
- 2.3.7 Damage, deface, pick or remove any herb, shrub, bush, tree, or turf, or a portion thereof, on the premises.

2.4 Conformity with Signs and Emergency Directions. Persons in or on the premises shall comply with official signs of a prohibitory or directory nature and with the directions of authorized individuals.

2.5 Nuisances. The use of loud, abusive or otherwise improper language; unwarranted loitering, sleeping or assembly; the creation of any hazard to person or things; improper disposal of rubbish; the commission of any obscene or indecent act, or any unseemly or disorderly conduct on the premises; throwing articles of any kind on the premises, or climbing upon any part of the buildings is prohibited.

2.6 Gambling. Participating in games for money or other personal property or the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets in or on the premises is prohibited.

2.7 Intoxicating Beverages and Narcotics. Entering the premises or the operating of a motor vehicle thereon by a person under the influence of any intoxicating beverage or narcotic drug or the use of such drugs in or on the premises is prohibited. Consumption of intoxicating beverages on the premises is prohibited, unless officially authorized.

2.8 Soliciting, Vending, Debt Collection, and the Distribution of Handbills. The soliciting of alms and contributions, commercial soliciting and vending of all kinds,

the display or distribution of commercial advertising, the collecting of private debts and the canvassing and disseminating of written materials for political, charitable or religious purposes are prohibited. This rule does not apply to concessions operated by Washington Park Zoo or by a contractor for the Zoo.

2.9 Dogs and Cats and other Animals. Dogs and cats and other animals shall not be brought upon the premises for other than official purposes.

2.10 Photographs for News, Advertising or Commercial Purposes. No photographs for advertising or any other commercial purpose may be taken on the premises unless officially authorized.

2.11 Weapons and Explosives. No person while on the premises shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes, nor shall any person discharge or set off any fireworks or explosives of any nature on the premises.

3. Parking Lot and Sidewalk Adjacent to the Washington Park Zoo.

3.1 Vehicular and Pedestrian Traffic.

3.1.1 Drivers of all vehicles in or on the premises shall drive in a careful and safe manner at all times and shall comply with the signals and directions of the police and all posted traffic signs.

3.1.2 Blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on the property is prohibited. Parking without authority, or parking in unauthorized locations or in locations reserved for other persons or contrary to the direction of posted signs, is prohibited.

3.2 Advertising, Canvassing, Soliciting and Disseminating of Written Materials for Political, Charitable or Religious Purposes. Advertising, canvassing, soliciting and disseminating of written materials for political, charitable, or religious purposes is permitted on the parking lot and sidewalks between the parking lot and the fence surrounding

the Washington Park Zoo. Such activities must be conducted in accordance with the following conditions:

- 3.2.1 Parking lot entrances, exits and travel lanes must not be obstructed. Interference with traffic flow is prohibited.
- 3.2.2 Loudspeakers and other sound devices are prohibited.
- 3.2.3 Activity causing a crowd to gather is prohibited if pedestrian or vehicular traffic is obstructed or impeded.
- 3.2.4 Activity conducted within twenty feet of an admission gate or ticket booth is prohibited.
- 3.2.5 Activity shall be conducted by no more than two persons in the vicinity of each admission gate for each cause or candidate.
- 3.2.6 Obstructing zoo visitors' line of travel or detaining a zoo visitor against his will is prohibited.
- 3.2.7 Abusive language, inflammatory language and actual or threatened physical harm directed against a zoo visitor or employee is prohibited.
- 3.2.8 A person conducting such activity shall identify his cause or candidate and shall not misrepresent his purpose.

4. Penalties.

Each violation of these rules and regulations shall be punishable by a fine of not more than \$500 or by imprisonment in a county jail for not more than 30 days or by both.

77-758 SEAL POOL COVER BID AWARD

At 3:00 P.M. on Monday, February 14, 1977, two seal pool cover construction bids were opened. The construction budget was \$12,000 to \$15,000. The first bid opened was from J & J Construction Company, and was in the amount of \$27,985. The second bid from Sorrento Construction Company was for \$42,500 and included a statement that they were abstaining because flamability tests on the covering net material did not meet specification. The minutes of the bid opening are attached.

Mr. Philip Thompson, Architect, and designer of the structure recommends a flamability test be held with all terested parties represented to resolve the question. He also stated that the seal pool cover will cost more than the construction budget.

The staff recommends that the MSD Board REJECT all bids submitted and further DIRECT the staff to investigate alternate ways to protect the seals.

METROPOLITAN SERVICE DISTRICT
BOARD ACTION

NO. 77-758 DATE 2-25-77

BARTELS
GORDON
McCREADY
ROBNETT
SALQUIST
SCHUMACHER
MILLER, CHAIRMAN

YES	NO	ABST.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

John M. Wood
Clerk of the Board



METROPOLITAN SERVICE DISTRICT

1220 S.W. MORRISON, ROOM 300, PORTLAND, OREGON 97205

(503) 222-3671

B I D O P E N I N G

SEAL POOL COVER
FOR WASHINGTON PARK ZOO

FEBRUARY 14, 1977
3:02 P.M.

STAFF IN ATTENDANCE

CHARLES C. KEMPER
JOHN WILSON
JEAN WOODMAN

ADVISORS IN ATTENDANCE

PEARSE O'DOHERTY, PHILIP THOMPSON ARCHITECTS

GUESTS IN ATTENDANCE

DAVID E. LOVE, SORRENTO CONSTRUCTION Co.
JIM KEETON, J & J CONSTRUCTION Co.

MR. KEMPER OPENED THE BIDS RECEIVED, STATING THAT THE BID BONDS APPEARED TO BE IN ORDER. MR. WILSON READ THE BIDS RECEIVED WHICH WERE AS FOLLOWS:

1. J AND J CONSTRUCTION, 1836 NE 32ND AVENUE, IN PORTLAND
BID - \$27,985.00.
2. SORRENTO CONSTRUCTION Co., SUBMITTED A BID IN THE
AMOUNT OF \$42,500; HOWEVER, ABSTAINED FROM PARTICIPATION
STATING THAT THE PROJECT CONTAINED SOME INSOLUBLE
DESIGN PROBLEMS.

MR. KEMPER STATED THAT STAFF WOULD DISCUSS THE PROBLEMS WITH THE ARCHITECTS FOR SOME SOLUTION.

DALE M. HARLAN
ATTORNEY, P.C.
2202 S.E. LAKE RD.
MILWAUKIE, OREGON 97222

654-9533

February 25, 1977

BOARD OF DIRECTORS
METROPOLITAN SERVICE DISTRICT
1220 SW Morrison Street
Portland, Oregon

Gentlemen and Mrs. McCready:

I met with your attorney, Dean Gisvold, on February 17th, and at that time I received my first copy of HB 2683. He gave me an "Amended Summary" of proposed Amendments to his Bill, which included 13 Amendments. I gave him a first draft of the Solid Waste Industry's proposed Amendments which were 6 in number plus the addition of two sections to the Bill amending ORS Chapter 268 concerning Solid Waste Collection and MSD. I met with Mr. Gisvold yesterday, and he gave me four Amendments, two of which were new. This letter supersedes the rough draft of my letter of February 24th to Mr. Gisvold.

Attached are two documents:

1. Proposed Amendments to HB 2683 which are still 6 in number, a reference to the amendments for three sections of ORS Chapter 268 which we seek, and a Summary.

2. The exact language of our proposed Amendments to ORS Chapter 268.

Our amendments and additions are limited or summarized as follows:

- (1.) We see no reason to amend ORS 268.300 as requested in Section 1. of HB 2683.

- (2.) We call attention to problems with Section 3. of the Bill, but we have no objections.

- (3.) We believe the civil penalties proposed in Section 4. need more elaboration.

- (4.) We ask that language be added to Subsection(1) of Section 5. of the Bill for pass-through of the Service or User Charges.

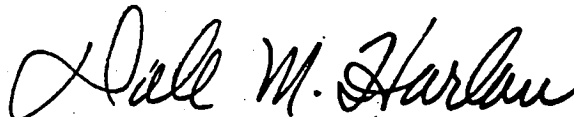
- (5.) We see no need to amend ORS 459.065 as proposed by Section 6. of the Bill. That would dilute Solid Waste authority of cities and counties for local administration without any apparent gain to Metropolitan Service District. The change from "cities and counties" to "Local Government Unit" would spread authority through six different types of public corporations plus "any other local government unit."

February 25, 1977

(6.) We see no need to amend ORS 459.095 dealing with the authority of DEQ. MSD does not need the additional power requested. The power rests with DEQ and should remain there.

Our second attachment explains the amendments proposed to ORS Chapter 268 to protect the Solid Waste Franchises issued by cities and counties.

Respectfully submitted,



DALE M. HARLAN, Attorney for
Solid Waste Entities:

DH:e

CLACKAMAS COUNTY REFUSE DISPOSAL ASSN., INC
MULTNOMAH COUNTY DISPOSAL ASSN., INC.
OREGON STATE DROP BOX ASSN., INC.
PORTLAND AREA SANITARY OPERATORS
TEAMSTERS LOCAL 281
WASHINGTON COUNTY REFUSE DISPOSAL ASSN., INC.

PROPOSED AMENDMENTS TO HB 2683

I. Amendments to HB 2683 as Drafted

*no agree to word
change agreed to each*

1. Remove Section 1. There is no need to amend ORS 268.300.

2. We have no objection to Section 3, but in fairness, we think we should call these matters to the Board's Attention:

(a) Recyclers may object to Sec. 3 because it would appear to require even those who "pick up" Solid Waste to use a District's "disposal system". (See Lines 29-31, p. 2).

(b) Cities or counties may object to irrevocable release of flow control to a Metropolitan Service District. The City of Portland in its joint resolution of support of the District specifically reserved Flow Control to the city.

(c) The Board of MSD may want to remove the word "sanitary" as modifying the word "landfill" on p. 2, line 19. The District may have to shred and spread some waste that would not need daily compaction or cover as required with a "sanitary landfill".

OK
3. On Section 4., proposing to amend ORS 268.360 on the District's police power, we believe the Bill should go further than to specify that civil penalties "shall be established, imposed and collected in the same manner" as "under ORS Chapter 468." This proposal, I believe, is unenforceable and unconstitutional. It would not provide Due Process to an alleged violator. Subsections (3) and (4) should be deleted and additional sections should be added with the same essential provisions as those set out in ORS 468.090-468.140, dealing with the enforcement powers of DEQ and provision should be made that there is no double punishment by both DEQ and MSD for the same infraction or violation.

4. With reference to Section 5., we agree that more adequate language is needed concerning the District's authority to collect Service or User charges. However, more adequate provision must, also, be made for pass-through of service or user charges than the language proposed to me yesterday by Mr. Gisvold. I may do a separate memorandum of explanation or at least provide comments to the Board as to why we feel this way. At the very least, a sentence should be added at the end of the sentence on line 24, p. 3, to the following effect:

"Those who collect or transport solid or liquid waste for compensation shall be allowed a reasonable time to obtain approval from cities and counties for pass-through of the costs of such charges to the generator of solid and liquid waste before such charges are imposed or increased."

OR

"No imposition or increase of such a charge shall become effective less than 90 days after the District sends notification of the imposition or increase to those who collect or transport solid or liquid waste for compensation."

OR

"Except in an emergency, declared by the unanimous vote of the District Board, an Ordinance approving imposition or an

*60 days
take out memorandum
b/c Use DRG
words*

increase in such a charge shall not become effective until 90 days after passage."

5. We object to Section 6. There is no need to amend ORS 459.065. That section now provides that cities and counties can do certain things in a cooperative way. The proposed amendment would say that "Local Government Units" could do those things. "Local Government Unit" is defined in ORS 459.005(6) as:

- Just add
MSD to
city & county*
- (a) A city;
 - (b) A county;
 - (c) A Metropolitan Service District;
 - (d) Sanitary District formed under Chapter 450;
 - (e) Sanitary Authority formed under Chapter 450;
 - (f) County Service District formed under Chapter 451;
 - (g) Regional Air Quality Control Authority formed under Chapter 468; or
 - (h) Any other local government unit responsible for solid waste management.

The section being amended provides for joint or regional franchising of "service" (which includes collection, transportation, disposal, or resource recovery); for joint preparation and implementation of solid waste management plans; for establishing a regional solid waste management system; for regional disposal sites; for employment of persons to operate the sites; and "For promotion and development of markets for energy and materials from resource recovery."

I feel certain that any reflection would indicate that it would not be reasonable to so dilute solid waste control to any "Local Government Unit" as the MSD Bill proposes. Instead of having just MSD as the government entity in Resource Recovery, as we propose to accomplish in the other amendments, this would put Sanitary Districts, Sanitary Authorities, County Service Districts, Regional Air Quality Control Authorities, etc. into the field. No amendment is needed in this section which deals only with local administration. The amendments sought by MSD should be to the chapter of laws dealing with MSD. That is Chapter 268.

*Use D76 word
or agreed earlier.*

6. We see no need to amend ORS 459.095 as proposed by Section 7. of the Bill. The reason: The District is already getting broad, new authority under Section 3. We could add "Resource Recovery" to the "purpose" preamble of proposed Section 3. and accomplish the desired purpose without disturbing the powers of local units of government. 459.095 already provides that solid waste management regulations adopted by Local Government Units cannot conflict with the rules and regulations of the Department of Environmental Quality. MSD's plans are supposedly approved by DEQ. We do not need separate provisions that also say that the actions of Local Government Units shall not conflict with MSD. The proposed change is undoubtedly unconstitutional by infringing on constitutional powers of cities and counties and it would mean that every local official would have to worry about both DEQ and MSD legislation.

II. Amendments to Existing Law

The Solid Waste Industry requests appropriate changes in ORS 268.030, 268.310, and 268.320 to take out the present power which creates a threat to present Franchises by allowing Metropolitan Service Districts to collect and transport solid waste under agreements. This, and the limited time to pass through the User Fee, are the only things the Solid Waste Industry is asking of a substantive nature. Our other amendments are only intended to make the MSD

Chapter into a workable body of law to give MSD unquestioned dominance and control over disposal, flow control, and resource recovery.

III. Summary

We are not objecting to Sections 2, 3, 8, 9, 10, 11, 12, 13, 14, or 15. We are not objecting to any of the amendments proposed by Mr. Gisvold to his own Bill, ie. the 13 amendments in his "Amended Summary" of 2/17/77, or the 4 amendments submitted to me on 2/24/77, unless otherwise noted.

We are not questioning everything Mr. Gisvold has done by any means. His nine proposed new sections of law and the later proposed seventeen amendments to those new sections of law and amendments of existing law are met with our 6 modest requests on his 26 changes, plus the basic request in our 3 proposed amendments to remove the power of MSD to enter into collection and transportation of Solid Waste.

Respectfully submitted,



DH:e

DALE M. HARLAN, Attorney for
Solid Waste Entities:
CLACKAMAS COUNTY REFUSE DISPOSAL ASSN., INC.
MULTNOMAH COUNTY DISPOSAL ASSN., INC.
OREGON STATE DROP BOX ASSN., INC.
PORTLAND AREA SANITARY OPERATORS
TEAMSTERS LOCAL 281
WASHINGTON COUNTY REFUSE DISPOSAL ASSN., INC.

THE SOLID WASTE INDUSTRY'S PROPOSED ADDITIONS TO HB 2683

On January 19, 1977, we responded to the request of Subcommittee No. 5 Joint Ways and Means Committee of the Oregon Legislature to a request to join DEQ and MSD in making a report concerning the present status of the Court Cases, issues that should be clarified on MSD powers, and Industry's request for any legislative changes. We requested that DEQ serve as moderator of meetings of the parties to resolve all legal and practical matters. We urged the subcommittee to approve a budget to continue paying MSD staff and continue the program through the rest of this biennium.

At that time, I gave Mr. Gisvold and other representatives of MSD a copy of my report to Subcommittee No. 5. As requested, we sent Industry's proposed changes in ORS Chapter 268 to the Subcommittee Chairman under date of January 24th. However, HB 2683 as drafted by Mr. Gisvold contained none of the requests made by Industry. These requests have been the subjects of negotiating sessions between Industry and MSD on January 26th, February 10th, and February 24th.

Industry requests the following amendments to ORS Chapter 268 on Metropolitan Service Districts concerning the power of such Districts to collect and transport solid and liquid wastes by agreements with cities, counties, or other public corporations:

1. We request that that power be removed in ORS 268.310(2) by deleting the language in brackets and underlined:

*add
Strike*

"(2) Subject to the requirements of ORS 459.005 to 459.045, 459.065 to 459.105, 459.205 to 459.285 and subsections (1) to (3) of 459.992, dispose, and provide facilities for disposal of solid and liquid wastes (and, by agreement with other public corporations, cities, or counties in accordance with this chapter, collect and transport such wastes.)"

2. We propose that ORS 268.030 be amended as follows:

(1) By removing the present (3)(c) which reads:

*ties to solid
wastes*

"(c) Local aspects of those public services that are transferred to the district by agreement between the district and other public corporations, cities or counties."

(2) We would insert a new subsection in ORS 268.030 as follows:

why

"(4) The voters of a District may, from time to time, and in the exercise of their power of the initiative, or by approving a proposition referred to them by the governing body of the district, authorize the district to assume additional functions and determine the number, qualifications, and manner of selecting members of the governing body of the district."

(3) We would, also, add the following section to ORS 268.030:

no

"(5) Franchising solid waste and waste collection service shall be the responsibility of cities and counties, subject only to the power of a district to require any person or class of persons who generate,

collect or transport solid or liquid waste, to make use of the disposal sites or facilities of the district, or facilities designated by the district."

why
3. Section 268.320 should be repealed. Proposed subsection (4) to be added to 268.030 contains the exact language of subsection (1) of 268.320. This would be putting the present 268.320 where it belongs, in Section 268.030, and allow the district to deal with the metropolitan aspects of additional functions when approved by the voters. In addition, a district-wide vote could not deprive a city or home rule county of its sole Constitutional power to deal with local aspects of governmental functions, so there is no reason for ORS 268.320(2). Thus, the entire section 268.320 would be affected as outlined.

4. We would propose to add a new section to HB 2683 for a new provision in ORS Chapter 268. It would read as follows:

"Section _____. The definitions of ORS 459.005 shall apply to this chapter."

Respectfully submitted,



DALE M. HARLAN, Attorney for
the Solid Waste Industry

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