



**METROPOLITAN SERVICE DISTRICT**

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

(503) ~~222-3871~~ 248-5470

BOARD OF DIRECTORS

WASHINGTON PARK ZOO  
EDUCATION BUILDING  
4001 SW CANYON ROAD

SEPTEMBER 8, 1978  
2:00 P.M.

A G E N D A

78-1146 MINUTES

78-1147 PUBLIC COMMUNICATIONS

ADMINISTRATIVE DIVISION

78-1148 CASH DISBURSEMENTS

SOLID WASTE DIVISION

78-1149 PLEW'S DROPBOX CIVIL PENALTY  
78-1150 PROJECT PLANNING  
· CITIZEN TRANSFER STATIONS  
· DURHAM SITE FEASIBILITY  
78-1151 TRAVEL REQUEST

ZOO DIVISION

78-1152 TRAVEL REQUEST

OTHER BUSINESS

INFORMATIONAL REPORTS



# METROPOLITAN SERVICE DISTRICT

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

(503) ~~222-8874~~ 248-5470

## BOARD OF DIRECTORS

WASHINGTON PARK ZOO  
EDUCATION BUILDING  
4001 SW CANYON ROAD

SEPTEMBER 8, 1978  
2:00 P.M.

## A G E N D A

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78-1146 MINUTES

THE FOLLOWING PAGES CONTAIN THE MINUTES OF THE AUGUST 25, 1978, BOARD MEETING. THE STAFF RECOMMENDS APPROVAL OF THE BOARD MINUTES.

78-1147 PUBLIC COMMUNICATIONS

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

78-1148 CASH DISBURSEMENTS

THE ACCOUNTING DEPARTMENT HAS PREPARED CHECKS NUMBERED FROM 03560 TO 03665 FROM PAYMENT REQUESTS RECEIVED, WHICH WERE APPROVED AS WITHIN MSD BUDGET.

THE STAFF RECOMMENDS APPROVAL FOR PAYMENT OF CHECKS 03560 TO 03665 FOR CHECK REGISTERS DATED AUGUST 30, 1978, AND AUGUST 31, 1978, IN A TOTAL AMOUNT OF \$27,440.28.

METROPOLITAN SERVICE DISTRICT  
BOARD ACTION

NO. 78-1148 DATE 9-8-78

BARTELS  
BUCHANAN  
DURIS  
McCREADY  
ROBNETT  
SALQUIST  
SCHUMACHER

	YES	NO	ABST.
BARTELS	/		
BUCHANAN	/		
DURIS	/		
McCREADY	/		
ROBNETT	/		
SALQUIST	/		
SCHUMACHER	/		

*Paul Wood*  
Clerk of the Board

78-1149 PLEW'S DROPBOX CIVIL PENALTY

ON APRIL 3, 1978, PLEW'S DROPBOX SERVICE, INC., DUMPED A DROP-BOX LOADED WITH CONCRETE AND OTHER DEMOLITION MATERIAL ON THE PUBLIC STREET IN FRONT OF 7703 SE 20TH, PORTLAND, OREGON. ON APRIL 6, 1978, MSD ISSUED AN ASSESSMENT OF CIVIL PENALTY IN THE AMOUNT OF \$50 TO PLEW'S DROPBOX SERVICE, INC., FOR VIOLATING MSD CODE SECTION 12.02.060(1)(F), WHICH PROVIDES: "(1) EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, IT SHALL BE UNLAWFUL: (F) FOR ANY PERSON TO DISPOSE OF SOLID WASTE AT A PLACE OTHER THAN A WASTE DISPOSAL SITE CERTIFIED BY MSD."

AT THE REQUEST OF PLEW'S DROPBOX SERVICE, INC., A CONTESTED CASE HEARING WAS CONDUCTED IN THE MSD OFFICES ON JUNE 7, 1978. MR. RON WATSON, ATTORNEY FOR PLEW'S DROPBOX SERVICE CONTENDED THAT THE DUMPING OF THE CONCRETE AND OTHER DEBRIS ON SE 20TH WAS NOT IN VIOLATION OF THE MSD CODE SINCE THE WASTE MATERIAL WAS NOT COLLECTED, ACCEPTED OR OWNED BY PLEW AND SINCE PLEW DID NOT RECEIVE PAYMENT. HE FURTHER CONTENDED THAT PLEW IS NOT LIABLE FOR VIOLATING THE ORDINANCE BECAUSE LEN YAX CONSTRUCTION COMPANY OVERLOADED THE DROPBOX AND CAUSED IT TO BE TOO HEAVY TO TRANSPORT. IN ORDER FOR PLEW TO TAKE POSSESSION OF THEIR DROPBOX IT WAS NECESSARY FOR THEM TO EMPTY THE CONTENTS ONTO SE 20TH.

THE HEARING OFFICER'S ORDER No. 78-004 AFFIRMING THE CIVIL PENALTY OF \$50 AGAINST PLEW IS ATTACHED.

SUBSEQUENT TO THE ISSUANCE OF THE PROPOSED ORDER No. 78-004, THE STAFF HAS HAD DISCUSSIONS WITH MR. WATSON AND MR. ROGER EMMONS, ATTORNEY FOR THE OREGON SANITARY SERVICE INSTITUTE (OSSI). BOTH HAVE EXPRESSED CONCERN OF THE RAMIFICATIONS OF IMPOSING A CIVIL PENALTY AGAINST A DROPBOX COLLECTOR WITH RESPECT TO AFFECTING THE RELATIONSHIP BETWEEN THE DROPBOX ASSOCIATION AND THE CONSTRUCTION INDUSTRY AND OTHERS WHO SUBSCRIBE TO THIS TYPE OF WASTE COLLECTION SERVICE.

ON JULY 19, 1978, MSD RECEIVED A LETTER FROM MR. WATSON STATING THAT HIS CLIENT, PLEW'S DROPBOX SERVICE, INC., REGRETTED DUMPING THE DEMOLITION MATERIAL ON SE 20TH AND INDICATING THAT EVERY EFFORT WILL BE MADE TO AVOID FUTURE INCIDENTS OF THIS TYPE. IN ADDITION, MR. WATSON INDICATED THAT THIS MATTER WILL BE BROUGHT TO THE ATTENTION OF THE OREGON DROPBOX ASSOCIATION IN HOPES THAT THE SOLUTION CAN BE FOUND THAT WOULD AFFORD SOME PROTECTION TO THE DROPBOX COLLECTION INDUSTRY FROM THOSE WHO WOULD OVERLOAD THE BOX OR PLACE IN THE BOX RESTRICTED MATERIAL. THE STAFF INDICATED TO MR. WATSON AND MR. EMMONS THAT MSD WOULD COOPERATE IN ANY WAY POSSIBLE TO FIND A SOLUTION TO THE PROBLEMS FACING THE DROPBOX COLLECTORS.

SINCE PLEW'S DROPBOX SERVICE, INC., HAS EXPRESSED THEIR REGRET FOR DUMPING THE CONCRETE DEBRIS ON SE 20TH AND HAVE PLEDGED THEIR EVERY EFFORT TO AVOID FUTURE INCIDENTS OF THIS TYPE, AND SINCE PLEW AND THE OREGON DROPBOX ASSOCIATION AS WELL AS THE OREGON SANITARY SERVICE INSTITUTE HAS INDICATED THEIR DESIRE TO WORK WITH MSD TO FIND SOLUTIONS TO THE PROBLEM OF IMPROPERLY LOADED BOXES, THE STAFF FEELS THE INTENT OF MSD ENFORCEMENT ACTION HAS BEEN ACHIEVED.

THIS AGENDA ITEM WAS ORIGINALLY SCHEDULED FOR AUGUST 11, 1978, BUT WAS SET OVER TO THIS MEETING AS THE REQUEST OF PLEW'S DROPBOX SERVICE, INC.

~~THE STAFF RECOMMENDS MITIGATING THE PLEW'S CIVIL PENALTY FROM \$50 TO \$25 AS AUTHORIZED BY SECTION 5.01.090 OF THE MSD CODE.~~

Motion to adopt the hearings officer's order No. 78-004 as the final order.

METROPOLITAN SERVICE DISTRICT  
BOARD ACTION

NO. 78-1149 DATE 9-8-78  
YES NO ABST

BARTELS	/		
BUCHANAN	/		
DURIS	/		
McCREADY	/		
ROBNETT			
SALQUIST	/		
SCHUMACHER		/	

*Jean M. Wood*

BEFORE THE METROPOLITAN SERVICE DISTRICT  
OF PORTLAND, OREGON.

METROPOLITAN SERVICE DISTRICT )  
OF PORTLAND, OREGON )  
vs. ) NO. 78-004  
PLEW'S DROP BOX SERVICE, INC. ) PROPOSED ORDER  
8100 NE Grand Avenue )  
Portland, Oregon 97202 )

A contested case hearing on this matter was held before the undersigned on June 7, 1978, at 2:00 p.m. in the offices of the Metropolitan Service District (MSD), 1220 SW Morrison, Portland, Oregon.

MSD was represented by Attorney Janice M. Stewart. Respondent was represented by Attorney Ronald A. Watson.

Having heard the testimony of Paul Norr of the MSD staff, and Gary Plew, Carleen Plew and Clint Irby, and having received into evidence the exhibits noted below, I hereby make the following Rulings on Admissibility of Evidence, Findings of Fact, and Conclusions of Law.

RULINGS ON ADMISSIBILITY OF EVIDENCE AND MOTIONS

The following exhibits were admitted into evidence without objection:

Exhibit 1: Notice of Assessment of Civil Penalty dated April 6, 1978, offered by MSD;

Exhibit 2: Answer and Affirmative Defenses dated April 14, 1978, offered by MSD;

Exhibit 3: Application for Hearing dated April 14, 1978, offered by MSD;

Exhibit 4: Letter from Merle Irvine to Respondent dated April 7, 1978, enclosing the Notice of Assessment of Civil Penalty, offered by MSD;

Exhibit 6: Check in the amount of \$51.40 payable to the order of Plew's Drop Box Service, Inc., signed by Len Yax, offered by Respondent.

Exhibit 5, consisting of five (5) slides taken by Paul Norr on April 5, 1978, labeled A, B, C, D and E were offered and admitted into evidence over the objection of Respondent as to their relevancy and materiality.

Hearsay evidence submitted by both parties and opinion testimony by Mr. Norr were ruled admissible subject to determination of weight. Respondent's motion to dismiss the case at the end of the MSD presentation on the ground that the MSD had failed to prove the civil violation was denied.

#### FINDINGS OF FACT

1. At the request of Len Yax Construction, a 20 cubic yard drop box was delivered by Respondent on or about March 28, 1978, to 7703 SE 20th, Portland, Oregon. The drop box was placed on the street in front of the residence at 7703 SE 20th, Portland, Oregon, against the curb with the back door facing south on SE 20th.

2. Len Yax Construction filled the drop box with approximately 17 cubic yards of concrete and approximately 3 cubic yards of dirt and shrubs which had been removed from



the driveway at 7703 SE 20th, Portland, Oregon. Len Yax Construction was instructed that any concrete to be placed in the box must not exceed the "heavy load" line and be hand loaded. Len Yax Construction's machine filled the 20-yard box to the top with concrete topped with brush. The loaded box could not be hoisted onto the bed of a truck and Len Yax refused to unload the box so that it could be put on a truck. The box as loaded by Len Yax Construction was approximately some 60,000 pounds, and the truck was only authorized to haul 44,000 pounds, and the load exceeded the authorized limit.

3. When Respondent returned to pick up the drop box on or about March 30, 1978, the drop box was too heavy to be hoisted onto its truck. Respondent requested SCA Services to pick up the drop box with a larger truck, but SCA Services also was unable to load the drop box.

4. On or about April 1, 1978, Respondent requested Len Yax Construction to unload the drop box to the maximum load allowable, but Len Yax Construction refused to do so unless a second drop box was provided free of charge.

5. Clint Irby, a driver for Respondent, was instructed by Gary Plew to "get the drop box back any way he could." Mr. Irby returned on April 3, 1978, to 7703 SE 20th, Portland, Oregon, and found that the weight of the concrete inside the drop box had pushed the doors outward and bent the pin

holding the doors closed. He broke the pin on the doors. The doors flew open, and the shrubs and some concrete from inside the drop box fell out onto the street. Because the concrete was in the way, he could not secure the doors closed. Therefore, he secured the doors up against the sides of the drop box. He then proceeded to load the drop box onto his truck. During the loading, the remainder of the waste material inside the drop box was dumped out onto the street. The drop box contained no waste material when it was removed from the site.

6. Len Yax Construction paid Respondent by check upon delivery of the drop box. Respondent never presented this check for payment, but was informed on or about April 3, 1978, by a bank employee that Len Yax Construction had stopped payment on the check.

7. Paul Norr of MSD received a telephone call on April 4, 1978, from Joanne Yax reporting that Respondent's driver had dumped the contents of the drop box onto the street.

8. Mr. Norr visited the site on April 5, 1978, and took five photographs of the concrete, dirt and shrubs piled in the street in front of 7703 SE 20th, Portland, Oregon. This location is not a disposal site certified by MSD.

9. Thereafter, Mr. Norr called Respondent's place of business and spoke with Gary Plew. Gary Plew said he was

familiar with the incident, that his driver "just dumped the box where it was," and that the Respondent was not responsible for leaving the waste materials in the street.

10. The waste materials subsequently were cleaned up by Len Yax Construction.

#### CONCLUSIONS OF LAW

1. The testimony is clear that Respondent discharged the concrete and debris from its drop box onto the street as alleged in the Notice of Assessment of Civil Penalty. Respondent contends, however, that it was not in violation of the ordinance since the waste material, according to Respondent, was not collected, accepted or owned by Respondent. Respondent further contends that it is apparently not liable for violating the ordinance because Len Yax Construction overloaded the drop box and the drop box as loaded was too heavy to haul. While these contentions may be accurate they are irrelevant to the question of whether the Respondent violated MSD Code § 12.02.060(1)(f), which provides:

"(1) Except as otherwise provided in this chapter, it shall be unlawful:

... f) For any person to dispose of Solid Wastes at any place other than a Waste Disposal Site certified by MSD."

2. MSD has sustained its burden of proof that Respondent violated MSD Code § 12.02.060(1)(f) by disposing of solid waste at a place other than a waste disposal site certified

by MSD. The evidence is undisputed that Respondent caused the waste material to move from inside the drop box to outside the drop box onto the street by removing the drop box.

3. Respondent's arguments that MSD has interfered with its contractual relationship between the Respondent and Len Yax Construction and that the MSD was forcing Respondent to violate the law by hauling an illegal overload are without substance.

4. Respondent could have pursued other options to resolve this dispute with Len Yax Construction other than dumping concrete and debris onto a street.

" It may be that MSD Code § 12.02.060(1)(f) imposes a heavy burden upon drop box operators, or that drop box operators are going to have to change their method of operation in order to better protect themselves contractually against the overloading of drop boxes, or that the aforesited MSD Code § 12.02.060(1)(f) should be changed, but all such possibilities are matters outside the scope of this hearing.

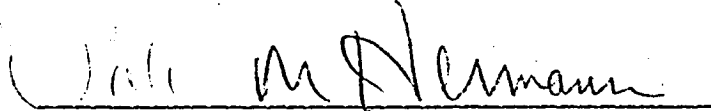
Based on the foregoing Findings of Fact and Conclusions of Law, I hereby made and enter the following:

ORDER

IT IS HEREBY ORDERED that the assessment by MSD upon

Respondent of a civil penalty of \$50.00, plus interest from  
April 26, 1978, until paid, is affirmed.

DATED: June 20, 1978.



Dale M. Hermann  
Hearings Officer

78-1150 PROJECT PLANNING

ON AUGUST 25, 1978, THE MSD BOARD APPROVED THE "MSD SITING ALTERNATIVES" REPORT AND A SHORT-TERM WORK PLAN. THIS AGENDA ITEM INCLUDES A DESCRIPTION OF TWO TASKS, WHICH THE STAFF HAS BEGUN. THEY ARE:

- . CITIZEN TRANSFER STATION IMPLEMENTATION
- . DURHAM SITE FEASIBILITY

THE ATTACHED REPORTS BRIEFLY DESCRIBE OUR WORK PLANS AND SCHEDULE FOR COMPLETION.

NO ACTION IS REQUIRED.

## CITIZEN TRANSFER STATIONS

### Implementation Work Scope

On August 25, 1978, the MSD Board of Directors adopted the Disposal Siting Alternative Report. Among other things, this report recommended that public dumping, as currently handled at existing landfills, be phased out through the construction of permanent unloading facilities at local landfills or through the use of citizen transfer stations. This recommendation was based on the premise that allowing public access to landfills increases operational costs. Therefore, to provide for efficiencies and economies in the operation of landfills, the following workscope has been prepared that would lead to the implementation and operation of the citizen use facilities.

#### I. Service Areas

- . Establish Optimum Service Area Sizes and Locations
- . Establish Service Area Implementation Priorities

#### II. Public/Private Participation and Financing

- . Determine Degree of Public/Private Participation and Financing
- . Modify DEQ Contract to Allow use of State Grant/Loan, if Necessary.
- . SBA Bond Financing
- . Other Financing

III. Design

- . Building
- . Equipment
- . Operation
- . Hours
- . Types of Material Accepted
- . Site

IV. Costs Estimates

- . Estimated Cost of Construction
- . Estimated Cost of Operation

V. Site Selection

- . Purchase
- . Land Use

VI. Governmental Relations

- . Local Jurisdictions
- . DEQ Permit

VII. Proposals

- . Prepare Request for Proposals
- . Review Proposals
- . Award Contract

VIII. Establish Rates

IX. Construct Facilities





# METROPOLITAN SERVICE DISTRICT

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

(503) 248-5470

September 5, 1978

## DURHAM SITE FEASIBILITY

There is a need in the southern part of the Metropolitan Service District area to establish a sanitary landfill. This need is created by many factors, one of which is the termination of Rossman's Landfill prior to activation of the proposed Resource Recovery Plant.

Based on current information, the Durham Pits provide the best opportunity to satisfy this need. The Durham Pits offer a close-in location, good access to the site on and off the freeway and the filling of this site would reclaim this area for a more productive community use.

There is a need for both those representing the Portland metropolitan region and the local community that surrounds the Durham Pits to approach this project objectively. The goal of this effort is to develop a design and an operational plan that would provide a balance between regional needs and local community values.

The project is broken down into three phases: preliminary assessment, project design and project implementation. This project segmentation provides an opportunity to systematically determine the feasibility of the project and minimize the cost for development. Following is a brief description of each of these three phases.

### Preliminary Assessment

Initially, it will be necessary to gather information that is readily available about the Durham site area, including an inventory of domestic and industrial water sources, groundwater conditions and flows, utility accesses to site and location of utilities on and off the site, as well as contacting local

jurisdictions about how the site should be developed. This material will be studied along with comments and other information from local jurisdictions to provide a design and operational criteria for the Durham site. This criteria and a concurrently developed financial analysis will be contained in a preliminary assessment report, which would be completed sometime early in 1979.

### Project Design

This phase of the project will be concerned with two main areas:

- (1) Further developing information that has been identified as being needed in the preliminary assessment phase, and
- (2) Working with the established design and operational criteria to develop a well balanced site design and proposed operational plan.

The final outcome of this phase would be the application for a DEQ disposal permit and land use and special conditional use permits from the local jurisdictions.

### Project Implementation Phase

This phase would involve carrying through the efforts of securing the land use and conditional use permit and DEQ's permit. Then upon acquiring these permits we would focus on the contracting of the site development and the operations.

Further activities in this phase would be contract enforcement to insure proper operations at the site and the contracting or the supervision of site closure once the fill has been completed.

SEPTEMBER  
1978

JANUARY  
1979

JUNE  
1979

PRELIMINARY  
ASSESSMENT

PROJECT DESIGN

PROJECT IMPLEMENTATION

THE  
DURHAM LANDFILL  
WORK PLAN

SEPTEMBER 1978

78-1151 TRAVEL REQUEST

THIS IS A TRAVEL REQUEST FOR CORDELL KETTERLING TO TRAVEL TO WASHINGTON, D.C., TO MEET WITH EPA'S TECHNICAL ASSISTANCE TEAM AND CONSULTANTS FOR THE PURPOSE OF EVALUATING THE PUBLISHERS PAPER COMPANY RESOURCE RECOVERY PROPOSAL. HE WILL BE ACCOMPANYING CHARLES KEMPER. THE BUDGET FOR THIS TRIP IS:

AIR FARE	\$424.00
MEALS	45.00
HOTEL	160.00
TRAVEL	20.00
MISCELLANEOUS	<u>31.00</u>
 TOTAL	 \$680.00

THREE TRAVEL AUTHORIZATIONS TO THE GRCDA CONFERENCE WERE NOT USED.

THE STAFF RECOMMENDS APPROVAL OF THE TRAVEL REQUEST FOR CORDELL KETTERLING AT A COST OF UP TO \$680.00.

METROPOLITAN SERVICE DISTRICT  
BOARD ACTION

NO. 78-1151 D-E 9-8-78

	YES	NO	ASST
BARTELS	/		
BUCHANAN	/		
DURIS	/		
MCCREADY	/		
ROBNETT	/		
SALQUIST	/		
SCHUMACHER	/		

*CordeLL Ketterling*  
Clerk of the Board

78-1152 TRAVEL REQUEST

THE INTERNATIONAL ASSOCIATION OF ZOO EDUCATORS IS HOLDING A CONFERENCE IN WASHINGTON, D.C., FROM SEPTEMBER 26 TO 29, 1978. BECAUSE EDUCATION IN ZOOS HAS BEEN STRESSED LONGER IN EUROPE THAN IN THE UNITED STATES, THE CONFERENCE OFFERS AN OPPORTUNITY FOR OUR DIRECTOR OF EDUCATIONAL SERVICES TO VISIT WITH THESE PEOPLE, AS WELL AS ZOO EDUCATORS FROM THE U.S., AND TO PICK UP NEW IDEAS FOR THE IMPROVEMENT OF EDUCATION PROGRAMS AT THE WASHINGTON PARK ZOO. COSTS WILL BE:

MEALS	\$ 60.00
LODGING	132.00
TRANSPORTATION	254.00
REGISTRATION	<u>20.00</u>
 TOTAL	 \$466.00

THESE FUNDS ARE BUDGETED AND STAFF RECOMMENDS THAT JACK DELAINI BE ALLOWED TO ATTEND THE CONFERENCE AT A COST NOT TO EXCEED \$466.00.

METROPOLITAN SERVICE DISTRICT.  
BOARD ACTION

NO. 78-1152 DATE 9-8-78

	YES	NO	ABST.
BARTELS	/		
BUCHANAN	/		
DURIS	/		
McGREADY	/		
ROBNETT	/		
SALQUIST	/		
SCHUMACHER	/		

*Paul Wood*  
Clerk of the Board

METROPOLITAN SERVICE DISTRICT

BOARD OF DIRECTORS

GUEST ATTENDANCE LIST

DATE: 9-8-78

NAME	REPRESENTATION
A. Marie Nelson	300 Division, MSD
C.F. Ketterling	SW Division, MSD
[Signature]	" " "
M. Wylf	City of Portland
D. Williams	Clackamas County
<b>Jack H. Porter</b>	<b>Rossmann's Landfill</b>
Gene P. R. Low	Land Reclamation Inc.
Scott Parker	ROSSMAN'S LANDFILL
Kenneth Watson	Land Reclamation, Inc.
John Crout	LOCAL 281
Bob Brown	DEQ
Charles Gray	DEQ