



METROPOLITAN SERVICE DISTRICT

6400 S.W. CANYON COURT PORTLAND, OREGON 97221 (503) 297-3726

May 10, 1973

TO: MSD BOARD
FROM: MSD STAFF
SUBJECT: STAFF REPORT FOR MAY 11, 1973

Presented to the Board herein for transmittal and information are the following items:

INFORMATION

1. Solid Waste Management Study - Consultants Progress Reports, Appendices I and II.
2. Review and Discussion - Draft Tire Disposal and Processing Ordinances, Appendices III and IV.
3. Review of Financial Sources Memorandum, Appendix V.

ACTION REQUIRED

4. Recommendation Relating to Bottle Systems, Inc. Proposal, Appendix VI.

INFORMATION - NEW BUSINESS

5. Public Information Program

STAFF REPORT

1. SOLID WASTE MANAGEMENT STUDY - PROGRESS REPORT

The Solid Waste Management Study has been in progress approximately three months. The first series of Public Information Meetings were successfully completed. Work on program organization has been completed. Major program tasks are progressing with analysis of secondary materials markets, continued data gathering on existing systems, evaluation of data on a county by county basis and investigations of potential landfill sites.

COR-MET Project Engineers have continued contacting people on a county by county basis. Cost data are being gathered with the help of the consultants, private industries and the counties.

Detail Progress Reports are included in Appendices I and II.

2. REVIEW AND DISCUSSION - DRAFT TIRE DISPOSAL AND PROCESSING ORDINANCES

The preliminary draft of the Tire Disposal Ordinance has been reviewed by the Technical Advisory Committee and the Citizens Advisory Committee. Comments and questions raised by the committees were returned to the MSD attorney for rewrite. The revised draft of the Tire Ordinance is included in Appendix III. First draft of the Tire Processing Ordinance is included in Appendix IV. The revised ordinance drafts will be reviewed again by the TAC and CAC with final recommendations provided to the Board by June 7, 1973.

3. REVIEW OF FINANCIAL SOURCES MEMORANDUM

Appendix V attached provides staff comments relating to possible sources of funding for the Metropolitan Service District. This memorandum is provided for the Board's information and no action is required.

4. BOTTLE SYSTEMS, INC. PROPOSAL

On April 27, 1973, Bottle Systems, Inc. proposed that the Board seek feasibility study funds (\$50,000) from DEQ. This study would determine the market feasibility for a machine to sort, count and store returned bottles. This machine is envisioned to reduce handling time by the major grocery chains and provide easy customer service.

At the last meeting, the MSD Board referred the proposal to the TAC. At the May 7, 1973 Technical Advisory Committee meeting, the following action was taken:

~~-----~~ "Mr. Meng moved to report to the MSD Board that this committee has considered the Bottle Proposal, and in this committee's opinion it has merit and might further help to strengthen the Bottle Bill; however, the problem is statewide and affects the industry to a greater extent than it does the public. This committee, therefore, would recommend that the MSD Board refer the matter to the State of Oregon. Mr. Kurth seconded the motion. The motion carried unanimously."

In addition, the MSD staff has proposed criteria for evaluating future proposals that will come before the MSD Board. The initial draft is presented in Appendix VI. Comments on this item will be provided by the TAC with a final report presented to the Board in the June meeting.

5. PUBLIC INFORMATION PROGRAM

A proposed Public Information Program prepared by Denny, Wagoner & Wright, was presented to the TAC and CAC this week. As a result of their questions on content and costs, this program will be revised. A portion of the Public Information Program included developing several slide shows for MSD. This effort will be started to provide MSD with a slide show by mid-June.

The Technical Advisory Committee took the following action after reviewing the draft of the Public Information Program:

"Mr. Meng moved to report to the Board that this committee has reviewed the cost breakdown on the proposed slide show and are in general concurrence with the show, but strongly urge the Board to make every effort to get a general educational material out to the general public prior to public discussions of potential sites. This committee also suggests that films that are already available might be another means of providing information to the public. Mr. Kurth seconded the motion. The motion carried unanimously."



CORNELL, HOWLAND, HAYES & MERRYFIELD
METCALF & EDDY

1600 S.W. FOURTH AVENUE, SUITE 601

PORTLAND, OREGON 97201

503/224-9190

MSD PORTLAND SOLID WASTE MANAGEMENT STUDY

COR-MET PROGRESS REPORT NO. 2

May 7, 1973

In the period from April 9 to May 7, the COR-MET staff has continued to gather basic data on the existing system and to evaluate that data on a county-by-county basis. In addition, the secondary materials market analysis is now well under way, and we have begun to investigate potential landfill sites within the study area.

A brief summary of our activities during this past month is contained in the following sections.

Clackamas County

Follow-up contacts have been made with several of the people mentioned in the last progress report. In addition, Morley Hofer, of the National Forest Service, was interviewed regarding solid waste handling in Mt. Hood National Forest; and Tom Bispham of Columbia Willamette Air Pollution Authority (CWAPA) was contacted regarding open burning. John Powers attended the Clackamas County public hearing for presentation of the Comprehensive Plan on April 16. The responsibility of all county and municipal agencies having solid waste management duties have been defined and tabulated, and the list will be submitted to appropriate officials for verification.

John Powers has investigated the following three closed-out disposal sites in the county: Burright; J & W; and Mt. Scott Sand and Gravel. In addition, Larry Theisen and John Powers



have visited the Alford property to determine its potential suitability for use as a landfill site.

Columbia County

Contacts have continued with various county and municipal officials. Information on all county and municipal agencies responsible for solid waste management has been gathered and tabulated, and the list will be circulated among appropriate officials for verification. To determine present problems and possible future use, Mike Kennedy has visited the following closed-out disposal sites: Rainier, Vernonia, and Petersen's. Larry Theisen and Melissa Brown have visited the Clatskanie disposal site to determine appropriate action on that site for the June 1 interim submittal. Mike Kennedy and Jim Newton attended the meeting of the Solid Waste Advisory Committee on April 19 in St. Helens.

Multnomah County

Meetings and discussions have been held with the following people: Terry Sanderblast, Portland Planning Commission; John Dunnigan, Portland Bureau of Buildings; John Dodd, County Sanitarian; Bill Goldbach, Pacific Power and Light; Tom Vanderzanden, CRAG; and Herman DeRego, Manager of Multnomah County Animal Control. In addition, the following individuals have been interviewed by telephone: City Recorder and Mayor of Fairview; Public Works Director of Troutdale; Portland Nuisance Bureau.

Jim Newton has visited the Don Obrist disposal site in the City of Troutdale. Larry Theisen, Melissa Brown, and Jim Newton have visited the Hidden Valley disposal site to determine appropriate action on that site for the June 1 interim submittal. Melissa Brown and Jim Newton have visited the following properties to determine their potential suitability as

landfill sites: Waybo Construction gravel pit on N.E. Killingsworth; and Portland Sand and Gravel pit on S.E. Division.

The responsibilities of all county and municipal agencies in solid waste management have been defined and tabulated, and the list will be submitted to appropriate officials for verification.

Washington County

Many of the officials listed in the last progress report have been interviewed further. In addition, contacts have been made with the Washington County Haulers through their attorney, DeMar Batchelor. Telephone conversations were held with officials from 12 cities in the county to determine nuisance abatement and abandoned vehicle ordinances. The responsibilities of all county and municipal agencies in solid waste management have been defined and tabulated, and the list will be submitted to appropriate agencies for verification.

Melissa Brown and Ed Locke attended a meeting of the Washington County Haulers Association on April 26 in Hillsboro. Brown and Locke have also visited the following properties to determine their potential suitability for landfill sites: the County gravel pits near Durham and the Porter-Yett site on Scholls Ferry Road.

Secondary Materials Market

Goals for analysis of the secondary materials market have been established, the approach has been organized, and questionnaires have been prepared. A library of reference literature has been established, and review of the material is proceeding.

The following people have been contacted to date: Bill Culham, City of Portland; Chuck Haney and Bill Meyer, ESCO Corporation; Bill Brae and Jane Lynn, ORION; Walt Rietz, Northwest Paper Fibers; Jim Casey, Goodwill; Ernie Scharf, United Glass & Bottle Company; Jim Mayberry, Tuf-Board; Bob Libby, U.S. National Bank; Dave Yett, Lavelle & Yett Landfill; Bob Wethern, National Association of Manufacturers; Bill Goldbach and Bob Peterson, PP&L; Tim McLaughlin, American Hoist and Derrick; Don Statham, Morgan Equipment Company; Carl Winans, Peerless truck fabricators; Bob McKeever, Conrad Veneer; Doug Frengle, Oregon Economic Development Division; Dave Eagon and Oliver Larsen, Chamber of Commerce; Fred Webber, Chamber of Commerce Industrial Committee and PGE; John Hook, Chamber of Commerce Environmental Standards Committee; Frank Lanou and Roger Willsie, economists; Ed Edwards, Lees-Carney; Larry Frost, Tektronix; Ivan Congleton, Associated Oregon Industries; Dick Glanz, collector; Jack Stewart, Oregon Draymen and Warehouse Association; Ogden Beeman, Warren Nash, Andy Bekis and Lou Deaumaw, Port of Portland; Don Kroeker, mechanical engineering consultant; Arthur Dummer, Oregonian; Helen White, U.S. Department of Commerce; Bob Good, Portland State University; Doug Lorghurst, Portland Recycling Team; Frank Lamb, Lamb-Weston Land Development; and Bob Free and Gary Grimes, DEQ.

On May 7, Melissa Brown and Steve Pinnell attended a day-long tour of the local paper recycling industry sponsored by ORION.

Septic Tank Pumpings

Data gathering has been completed for the special interim report of June 1 required for septic tank pumpings. The following people were contacted: Jim Goldsmith, State Board of Health; Pat Curran and Bob Gilbert, DEQ; Mike Sandburg, Washington County Public Health Department; Terry Rahe, Columbia County

Public Health Department; Harding Chinn, Multnomah County Environmental Quality Department; Les Beard, Clackamas County Plumbing Department; Mr. Easter, Portland Building and Plumbing Department; Cliff Schiel, Bob Schulz, and Lou Sakkenga, Columbia Processor Coop; Howard Harris, Columbia Boulevard Sewage Treatment Plant; John Squires, Tryon Creek Sewage Treatment Plant; and representatives of other major sewage treatment plants or sewerage agencies.

Boeing-Boardman

Data gathering and analysis is proceeding for the special interim report of June 1 required for the Boeing-Boardman project. John Powers has visited the Boardman site and met with Jack McFadden, Boardman Development Business Manager for Boeing. Cost estimates for the project as originally conceived have been obtained from George Ward Associates. Reports on the original project and soil investigation reports have been obtained and reviewed.

Solid Waste Quantities

Data obtained from the weighing program have been augmented by records from all disposal sites throughout the area, and the resultant residential, commercial, and industrial solid waste quantities are now being distributed back into the system. Field checks of industrial sources are just beginning. Projections of future residential and commercial quantities must await receipt of population projections.

A questionnaire to determine rural waste quantities and handling methods has been prepared and mailed to 1,000 rural residents throughout the study area. (Volunteers from the League of Women Voters were most helpful in addressing the mailers.) Results of the questionnaires are now being tabulated.

The acreage of land devoted to various types of crops has been estimated, and future acreages have been projected through the year 2000. Using a typical waste generation per acre for each type of crop, present and future quantities of agricultural wastes have been determined. Present and future timber harvesting wastes have been calculated in a similar manner.

Cost Data and Population Projections

We are awaiting receipt from the MSD staff of cost data on the existing system and future population estimates.

Public Information Exchange

The final two meetings of the first round of public information exchange meetings for the project were completed. The meeting in Clackamas County was held on April 10 in Oregon City. Three members of the COR-MET staff attended that meeting; public attendance was about 40. The Multnomah County meeting was held on April 12 in Portland. Four members of the COR-MET staff attended; approximately 55 private citizens were there.

In addition to the formal meetings, an informal presentation was given by Jim Newton to the Portland Chamber of Commerce Environmental Standards Committee on April 19.

Meetings have been held with John Denny, of Denny-Wagoner-Wright, to discuss the possible contribution of his firm to our public presentations. Proposal details are forthcoming.

Miscellaneous

Six COR-MET engineers attended a special meeting at DEQ on April 18 in which Randy Sweet, the State hydrogeologist, discussed some aspects of landfill site selection in the study area.

Mike Kennedy has met with Gerry Thomas, Solid Waste Supervisor, Cowlitz County, Washington, and observed the rural collection system there.

Melissa Brown, Jim Newton, and Ed Locke attended the all-day conference of the Oregon Sanitary Services Institute at Tualatin on June 28.

J. Melissa Brown
J. Melissa Brown
Project Manager

**Bartle
Wells
Associates**

Municipal Financing Consultants
150 Post Street, San Francisco 94108

(415) 981-5751

May 3, 1973

Mr. Charles C. Kemper
MSD Program Coordinator
Metropolitan Service District
6400 S. W. Canyon Court
Portland, Oregon 97221

Re: MSD Solid Waste Management Study
Progress Report No. 1

Dear Mr. Kemper:

Bartle Wells Associates has commenced work on the MSD solid waste management study. Work has been coordinated with Melissa Brown, COR-MET Project Manager; and Charles C. Kemper, MSD Program Coordinator.

Assigned Bartle Wells staff are as follows:

Raymond K. O'Neil - Project Manager - 415/981-5751
Fred W. Cope - Consultant - 503/228-0608
(answering service)

The detailed task descriptions submitted to the MSD staff on April 19, 1973 are attached and referred to in this progress report.

Progress by task to date is as follows:

Task 4a (no subtask) Public Information

The Project Manager, Raymond K. O'Neil, participated in the first public meeting held in the four counties (May 4, 5, 10, and 12).

Task 4b Financing Plan

General

Subtask 1 and 2

The Project Manager has assisted in the development of the interim report on tire processing and disposal.

MAY 7 1973

COLUMBIA REGION ASS'N.
OF GOVERNMENTS

Mr. Charles C. Kemper
MSD Program Coordinator
May 3, 1973
Page 2

1. Existing Operators and Existing and Possible Agencies

Financial data is being collected for existing operators and for MSD's possible service area. Work began with a review of COR-MET and MSD data to determine where more detailed financial data will be required.

Subtask 3 and 4 - Survey and describe existing programs and existing and proposed state and federal programs for regional aspects.

Progress includes the review of COR-MET information; collection and review of DEQ information and policies; and an initial study of applicable local and state laws and regulations. A survey of current federal programs is being initiated.

Subtask 5 through 8 - (Work not scheduled to commence)

Task 4c Legislative Program - (Work not scheduled to commence)

Task 4d Management and Liaison

General

Work included preparation of the above-mentioned task descriptions and work diagram, and attendance at several joint staff meetings and MSD board meetings.

Yours very truly,

BARTLE WELLS ASSOCIATES



R. K. O'Neil

RKO:kpe

Attachment

EARTLE WELLS ASSOCIATES TASK DESCRIPTION
 MSD SOLID WASTE MANAGEMENT STUDY
 APRIL 5, 1973

Task	\$	M.D.	Sub Task	Description
4a	\$ 6,500	25	(None)	<u>Public Information</u> - explore possible financing & legal arrangements by and at public meetings.
4b	18,400	70		<u>Financing Plan</u> - Develop financing & legal criteria for use in evaluation of alternative plans.
		4	.1	Financial Data Collection - Operations, existing.
		10	.2	Financial Data Collection - Agencies, present and possible.
		7	.3	Survey & describe existing programs for financing & institutional structures on a regional basis.
		3	.4	Survey & describe existing & proposed federal and state programs - regional aspects.
		7	.5	Summarize & describe techniques for locally available funds.
		12	.6	Develop financial & institutional structure options for alternative plans.
		3	.7	Determine private co. interest in program elements.
		24	.8	Prepare estimate of revenues & expenditures
4c	4,100	16		<u>Legislative Program</u>
		8	.1	Survey & summarize Oregon enabling acts.
		2	.2	Review articles of incorporation, terms of franchise agreements.
		1	.3	Determine nature of physical interfaces.
		2	.4	Outline legislative questions
		3	.5	Suggest legislative changes
4d	4,200	15	(None)	<u>Management & Liaison</u> (work schedules & programs, meetings).

MSD TIRE ORDINANCE

SECTION 1. (Definitions)

- (1) "Board" means the governing body of the Metropolitan Service District.
- (2) "Disposal" means the discarding^{in treatment} of a motor vehicle tire as waste. It does not include the salvaging of tires for resale, recapping, or re-manufacture into other products.
- (3) "Disposal site" means a disposal site for solid waste operating under a permit granted by the Department of Environmental Quality pursuant to ORS 459.205 to 459.265.
- (4) "Motor vehicle tire" or "tire" means any tire made wholly or in part of rubber used on any vehicle propelled by a motor, including vehicles pulled or pushed by a vehicle propelled by a motor, regardless of whether such vehicle is used on a public highway; it includes tire bodies, carcasses or parts of tires in whatever form, except those intended for a use other than on vehicle wheels.
- (5) "Person" means any individual, firm, corporation, partnership or other entity as the context may require.
- (6) "Retail sale" means a sale for any purpose other than resale in the regular course of business; it includes sale of tires as incidental to the sale of a motor vehicle or other item. The sale of more than one motor vehicle tire to any one person at any one time shall constitute one retail sale.
- (7) "Tire carrier" means any person engaged in picking up or transporting used tires for the purpose of disposal or salvage and disposal, whether or not incidentally

to some other business.

- (8) "Tire processing center" means a place or piece of equipment where or by which motor vehicle tires are processed to such a form as to be acceptable in a disposal site.
- (9) "Tire retailer" means any person engaged in the business of selling motor vehicle tires at retail sale whether or not such sale is incidental to some other business or whether such tires are incidental to the sale of a motor vehicle; it includes every person who makes more than two retail sales of motor vehicle tires in any calendar year.

SECTION 2. No person may act as a tire carrier within the Metropolitan Service District without first obtaining a permit from the District. The District shall issue forms on which applications for such permit can be made; on such forms the applicant for a permit shall set forth:

- (1) Name and place of business.
- (2) The principal business in which he is engaged.
- (3) Whether he is engaged in any type of salvage of tires such as recapping or sorting of tires for recapping.
- (4) Such other information as the Metropolitan Service District shall require.

A permit shall be issued for a period of one year. The fee for such permit is \$_____.

SECTION 3. The permit requirements of this ordinance shall not apply to:

- (1) Tire carriers transporting used tires from one point outside the Metropolitan Service District to another point outside the Metropolitan Service District if no tires are picked up or disposed of within the Metropolitan Service District.
- (2) Persons transporting tires within the Metropolitan Service District solely for the purpose of salvage of such tires.

SECTION 4. Any permits issued under this ordinance are conditioned upon the continued observance of all the terms of the permit, this ordinance and the solid waste ordinances or statutes of the state, Metropolitan Service District, and the county within which such carrier is operating.

SECTION 5. No permit is required of a tire carrier who:

- (1) Transports less than ____ tires at any one time in any one vehicle; or
- (2) Transports no more than ____ tires in any calendar year.

ALTERNATE SECTION 5. No permit is required of a tire carrier who transports less than ____ tires at any one time in any one vehicle and who also transports no more than ____ tires in a calendar year. A refuse collector operating under a license or franchise from any city or county in the Metropolitan Service District may carry more than ____ tires in any calendar year without obtaining a permit, so long as no more than ____ tires are transported in any one vehicle at any one time.

SECTION 6. Tire carriers must deliver all those tires picked up or transported by them for the purpose of disposal only to a disposal site authorized by this ordinance to accept tires in the form the tires are delivered, or to a processing center authorized by this ordinance.

SECTION 7. A tire retailer may dispose of used tires only through a tire carrier operating under a permit granted pursuant to this ordinance or by himself transporting said tires to a disposal site authorized under this ordinance to accept the tires in their then present form or by himself transporting or giving up said tires to a tire processing center authorized under this ordinance.

SECTION 8. A tire retailer must accept for each tire sold to a consumer thereof one used tire from said consumer. The tire retailer may charge the consumer upon the acceptance of the used tire a reasonable fee sufficient to cover his costs, if any, of storage, transportation,

processing, and disposal.

SECTION 9. Tires may be accepted for on-site disposal only at such disposal sites authorized by the Metropolitan Service District for disposal of tires. The operator of such a disposal site may accept for on-site disposal only tires in a processed form meeting Metropolitan Service District's specifications as set forth by ordinance, unless such site is also a processing center.

SECTION 10. Only those processing centers authorized pursuant to this ordinance to process tires may accept tires for processing. Such processing shall render the tires into such form as is prescribed by the Metropolitan Service District by ordinance for disposal of the tires at an authorized disposal site.

SECTION 11. The Metropolitan Service District within thirty days of the effective date of this ordinance shall survey the disposal sites within the boundaries of the District and shall issue certificates of authorization to accept tires for on-site disposal to those disposal sites for which the technical and economic feasibility of disposing of tires in a manner or manners prescribed by the Metropolitan Service District can be demonstrated.

SECTION 12. The Metropolitan Service District within thirty days of the effective date of this ordinance shall survey the processing centers within the boundaries of the District and shall issue certificates of authorization to accept tires for processing to those processing centers for which the technical and economic feasibility of processing said tires into a form prescribed by the Metropolitan Service District for incorporation into a disposal site.

SECTION 13. All disposal sites which accept or hold themselves out as accepting refuse from the general public shall accept all tires brought to them by any person other than a tire carrier operating under a permit granted pursuant to this ordinance, so long as such person does not deliver more than ten tires to the disposal site in any one day. The operator of a disposal site may levy a unit charge per tire sufficient to cover the cost of storage and transportation

to a disposal site or processing center authorized under this ordinance to accept such tires in their then present form for on-site disposal ^{or} ~~in~~ processing, plus any subsequent processing and disposal costs.

SECTION 14. The board may by resolution limit the number of permits granted pursuant to this ordinance and award exclusive franchises in defined areas and set fees for such franchises.

SECTION 15. Every tire carrier, tire retailer, or owner of a disposal site or processing center shall keep such records or other pertinent papers in such form as the board may from time to time require and shall deliver such records or papers to the board when requested. The board or their designated agent may at any reasonable time enter onto the business premises of any carrier, retailer, disposal site or processing center for the purpose of inspecting such records or papers.

SECTION 16. The board may by resolution make agreements with the governing body of any county which is partially or wholly within the Metropolitan Service District or of any county, whether in Washington or Oregon, which is contiguous to any county which is partially or wholly within the Metropolitan Service District to extend to any such county or part of any such county the provisions of this ordinance or of any permit system, franchise system, or procedure for administration or enforcement of this ordinance drawn up pursuant to this ordinance.

SECTION 17. The board may contract with any county wholly or partially within the Metropolitan Service District or any county with which the Metropolitan Service District has made an agreement pursuant to Section ¹⁶ ~~14~~, or with the state, any city or regional association of governments, for the administration or enforcement of any of the provisions of this ordinance or of the rules or resolutions adopted pursuant thereto.

SECTION 18. Every applicant for a permit under Section ____ shall execute a bond in the penal sum of \$1,000 in favor of the

Metropolitan Service District. Said bond shall be executed by the applicant as principal and by a surety company authorized to transact surety business within the State of Oregon. Such bond shall be filed with the board in accordance with the following conditions: In the carrying out of the business of tire carriers, the principal shall comply with all the provisions of this ordinance and such regulations issued hereunder, and that any person injured by a failure so to comply may have a right of action on said bond in his own name; provided that such action be commenced within one year after the injury; but the surety on such bond shall not be liable thereunder to any person in an amount in excess of \$1,000.

SECTION 19. Violation of any provision of this ordinance or of any rule promulgated pursuant thereto is a class ____ misdemeanor, as defined by 1971 ORS 161.505 to 161.685 for the first offense, and a class ____ misdemeanor, as defined by 1971 ORS 161.505 to 161.685, for the second offense.

MSD TIRE DISPOSAL ORDINANCE

SECTION 1. (Definitions)

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- (2) "Disposal site" means a disposal site for solid waste operating under a permit granted by the Department of Environmental Quality pursuant to ORS 459.205 to 459.265.
- (3) "Motor vehicle tire" or "tire" means any tire made wholly or in part of rubber used on any vehicle propelled by a motor, including vehicles pulled or pushed by a vehicle propelled by a motor, regardless of whether such vehicle is used on a public highway; it includes tire bodies, carcasses or parts of tires in whatever form, except those intended for a use other than on vehicle wheels.

SECTION 2. Tires may be incorporated into the general land fill at a disposal site only when so processed that:

- (1) The final volume of processed tires is not more than 35% of the initial volume of unprocessed tires; and
- (2) No single void space of greater than 125 cubic inches results when such processed tires are randomly placed in the land fill.

SECTION 3. The volume described in subsection 1 of Section 2 above shall be measured as follows:

- (1) Unprocessed tires — for each tire the volume shall be calculated by multiplying the area of the circle having a diameter equal to the outside diameter of the tire by the maximum width of the tire measured perpendicular to that area. The total volume of unprocessed tires measured shall be the sum of the individual tire volumes.

- (2) Processed tires - the final volume shall be determined by randomly placing the test quantity of processed tires into a rectangular container and leveling^{the} surface of processed tires. The volume shall be calculated by multiplying the depth of the processed tires by the bottom area of the container.

SECTION 4. The Board or their designated agent may prescribe and carry out such test procedures to determine whether any disposal site or any equipment or process for processing tires meets the criteria established by this ordinance.

APPENDIX V

MEMORANDUM

May 10, 1973

TO: MSD Board Members
FROM: MSD Staff
SUBJECT: Funding Options for MSD

The purpose of this memorandum is to provide a summary of the funding options available to the Metropolitan Service District and to document what action has been taken to utilize these options to date.

Funding Options

As defined in ORS 298, the Metropolitan Service District has the following funding options:

1. Levy an annual property tax not exceeding one-half of one percent per year (apx. \$45 million) (268.500),
2. Levy special assessments against property within the District in proportion to the benefits received (268.510),
3. Issue general obligation bonds and/or revenue bonds the total value of which not exceeding ten percent of the true cash value to all taxable property within the District (apx. \$900 million) (268.520),
4. Impose and collect service and user charges in payment for the services of the District (268.540-1),
5. Receive grants from public and private sources (268.540-2), and
6. Borrow money from any county or city with territory in the District (268.540-3).

Discussion

In the general election of Nov. 1970, the MSD attempted to obtain voter approval of a serial levy of \$312,000 per year for a two year period. It was defeated by the voters within the District by a vote of 70,019 (yes) - 166,996 (no). This has been the only attempt to obtain voter approval of a financial measure for the MSD.

Mr. Herb Hardy and Mr. Dean Gisvold (both of Cake, Jaureguy, Hardy, Buttler, & McEwen) have prepared several letters and memorandums dealing with the funding options of the MSD. Three of these letters are attached for your information. The first letter deals with the methods of financing the activities of MSD, the second letter describes in more detail the user charge on certain vehicular items, and the third letter deals with planning funds for MSD. There is also a list of items for possible user charges for your information.

In addition, Mr. Orval Etter has provided some useful information in the area of special assessments. His letter to Kay Rich is enclosed for your information.

Conclusion

In conclusion, the Metropolitan Service District legally has fairly broad funding options that would be worth pursuing in greater depth.

It may also be worthwhile to request the member jurisdictions to contribute a small amount for administrative purposes. Another option would be requesting a part of the State revenue sharing funds.



METROPOLITAN SERVICE DISTRICT

6400 S.W. CANYON COURT PORTLAND, OREGON 97221 (503) 297-3726

APPENDIX VI

May 7, 1973

TO: Technical Advisory Committee

FROM: MSD Staff

SUBJECT: CRITERIA FOR EVALUATING PROPOSALS TO THE METROPOLITAN
SERVICE DISTRICT

As a result of the Bottle Bank, Inc., proposal for feasibility grant funds, the MSD Board has requested that the Technical Advisory Committee develop procedures that can be used to evaluate proposals of this kind. With the help of Bill Culham, we have developed the attached criteria for TAC discussions. The criteria described herein includes:

- I. Requests for Financial Aid or Grants
- II. Proposal to Supply Equipment
- III. Proposal to Provide Turn-key Operations
- IV. Proposal to Provide Total Management Systems from Private Industry and Governments

It should be recognized that the MSD will receive, in the future, many proposals on which the Board must decide. From past experience it appears they will rely on TAC to provide technical analysis and recommendations.

CRITERIA FOR EVALUATING PROPOSALS TO THE
METROPOLITAN SERVICE DISTRICT

I. REQUESTS FOR FINANCIAL AID OR GRANTS

- A. Request should demonstrate why direct funding is not available.
- B. Request should explain why MSD endorsement is the only approach.
- C. MSD requirements for sponsorship:
 - 1. Budget shall show management overhead.
 - 2. Budget shall show industry participation and/or matching funds source.
 - 3. Goal or end product shall be clearly stated.
 - 4. Method of development and implementation funding of end product shall be outlined.
 - 5. Contracts shall be provided in the proposal with performance and cancellation clauses.

II. PROPOSAL TO SUPPLY EQUIPMENT

- A. Equipment integrity shall be demonstrated:
 - 1. Equipment shall be in production.
 - 2. Certified operational experience shall be demonstrated.
 - 3. Records of downtime and maintenance shall be provided.
- B. Equipment capability:
 - 1. The ability to perform work desired shall be demonstrated.
 - 2. The proposal shall fully describe any auxiliary equipment, supporting materials or buildings necessary.
 - 3. Modifications or remodelling necessary to existing equipment or buildings should be clearly described in the proposals.
 - 4. Replacement equipment or alternative methods in case of failure to meet time schedule should be described in the proposal.
 - 5. Equipment warranty coverage including life expectancy with adequate performance bond should be demonstrated.

III. PROPOSAL TO PROVIDE TURNKEY OPERATION

- A. Equipment integrity shall be demonstrated:
 - 1. Equipment shall be in production.
 - 2. Certified operational experience shall be provided.
 - 3. Record of downtime and maintenance shall be provided.
- B. Capability of Total Operation
 - 1. The ability to perform total work desired should be described.
 - 2. The total management system shall be completely described including previous work experience.
- C. Explanation of backup system and auxiliary services necessary should be supplied.
- D. Amount and life of performance bond and warranty shall be provided.

IV. PROPOSAL TO PROVIDE COMPLETE MANAGEMENT FROM PRIVATE INDUSTRY AND GOVERNMENT

- A. Financial responsibility shall be performed by:
 - 1. Showing financial capability for one year of operating cost to include labor, equipment depreciation, and land/building costs.
 - 2. Supplying a bond in favor of MSD to be carried throughout period, i.e. expected operation in amount sufficient to cover 6 months operating costs as defined above plus a 5% incremental increase over the original cost.
 - 3. Providing a lease-purchase option agreement by which MSD may assume operation and control of any land, buildings and equipment for a period of one year in the event of financial failure of the contractor to continue operation.
- B. Operation Experience:
 - 1. Provide satisfactory evidence of operating experience for a period of more than three years for a waste handling process capable of handling more than 1,000 tons/day.

2. Provide satisfactory evidence of ability to meet federal and state standards of sanitary operations and ability to obtain a state permit.
- C. Provide auxiliary backup system to insure continuous operation.
- D. Rates of collection and disposal will be reviewed and justified in public hearings prior to granting by MSD.



METROPOLITAN SERVICE DISTRICT

6400 S.W. CANYON COURT PORTLAND, OREGON 97221 (503) 297-3726

EXHIBITS IN SUPPORT OF
FINANCIAL SOURCES MEMORANDUM

1. Letter from Cake, Jaureguy, Hardy, Buttler & McEwen,
dated October 23, 1970.
2. Letter from Cake, Jaureguy, Hardy, Buttler & McEwen,
dated April 15, 1971.
3. Letter from MSD Board Chairman, Eldon Hout,
dated April 19, 1971.
4. List of possible items for user charges.
5. Letter from Orval Etter, dated September 25, 1970.

CAKE, JAUREGUY, HARDY, BUTTLER & MCEWEN

ATTORNEYS AT LAW

1408 STANDARD PLAZA

PORTLAND, OREGON 97204

226-7321

RALPH H. CAKE
NICHOLAS JAUREGUY
HERBERT C. HARDY
JOHN H. BUTTLER
DONALD W. MCEWEN
ROBERT L. WEISS
JONATHAN U. NEWMAN
JOHN R. FAUST, JR.
JOSEPH J. HANNA, JR.
DEAN P. GISVOLD
GEORGE C. REINMILLER
NICK I. GOYAK
ROBERT D. RANKIN
JOHN S. MORRISON

October 23, 1970

Board of Directors
Metropolitan Service District
Portland, Oregon

Gentlemen:

You have asked us to submit a report to you on methods of financing the MSD in its activities of sewerage - surface water and solid wastes.

In making our recommendations we believe any financing method must

(a) Meet constitutional and statutory requirements. (See Exhibit A attached hereto.)

(b) Raise sufficient revenue to justify its imposition and administration.

(c) Be acceptable to the public by requiring:

(i) That the financing method relate directly to the problem to be solved;

(ii) The payment to be in proportion to the pollution created.

Solid waste appears to be one of your most critical problems. In the eyes of the community, it is in need of a present solution. Assuming you can get a reasonable plan which will in whole or in part provide an acceptable plan of converting or disposing of waste, we believe it can be financed as follows:

1. The imposition of a reasonable "user" or service charge on vehicular items creating a critical part of the problem.

- a. Tires;
- b. Lubricating oil and greases;
- c. Spare parts.

As of 1969 there were 580,621 registered vehicles in the Tri-County area. These will use:

- a. At least one additional tire per year, which, at a user charge of \$1.00 per tire would raise \$580,621.00.
- b. At least 20 quarts of oil, which at a 5¢ per quart user charge will produce \$580,621.00.
- c. At least an average of \$50.00 worth of repair parts or replacements per year, which at a user charge equal to 5% of the sales price of the part would equal \$1,451,552.00.

These three user charges should produce an annual minimum of \$2,612,794.00 annually.

2. The imposition of user charges on certain other difficult items for which we have no present knowledge as to the volume thereof. Among these are

- a. Non-destructible and non-reusable plastic products;
- b. Kitchen appliances - stoves, refrigerators, freezers, washers, dryers, dishwashers;
- c. Hot water heaters, stoves, furnaces, air conditioners, incinerators and the like;
- d. Dismanteled or torn down buildings, bridges, asphalt and cement paving;
- e. Glass, non-reusable metals, cans with residues of chemicals, paints and like materials.

We submit, however, that a great deal more can be ascertained about these items which would enable you to provide for reasonable user charges therefor.

3. Since any user charge must bear some relation to the service therefor, we feel it necessary that at the times you pass the ordinances setting any service charge you have from engineers, architects and contractors some estimates on costs of the land, equipment and facilities required, both as to capital costs and operating costs.

so as to relate the charges with the costs. We suggest that these cost estimates can probably be acquired upon a credit basis or volunteer basis from local people. All present material I have seen indicates there are only three basic methods of handling this waste:

- a. Bury it
- b. Convert it to a usable product or sort and sell part
- c. Burn it

Probably your plan will encompass all three by a system to

- a. Salvage all you can find
- b. Convert all cellular material into usable soil conditioners
- c. Burn certain items in high heat incinerators
- d. Bury in sanitary land fills certain undisposableables such as tires and certain plastics.

Pilot programs in the country, plus experiences of other cities with specialized plants and equipment should, together with the skills of the engineers, architects and contractors, and the volunteered recommendations of equipment suppliers, enable you to come up with a fairly accurate estimate of costs within a short time.

4. Assuming you have the plan and the user charges to finance it, how do you build your facilities now?

a. If you can convince the Oregon Department of Environmental Quality of the reasonableness of your plan and the adequacy of your revenues, then, assuming the legislature has authorized bonds for solid waste, you can enter into a contract with the DEQ to apply a portion of your revenues to repay the State of Oregon for the principal and interest of its bonds issued to pay for your capital improvements, including land as well as personal property.

b. If no state bonds are available for solid waste, or if DEQ doesn't approve your plans, you can request the voters to authorize either general obligation or revenue bonds to build the capital items.

C. If alternates a and b are not available, but your user charges are adequate, you may be able to get capital improvements built on a privately financed basis.

While State bonds would provide the most economical means you cannot proceed until the 1971 Legislature passes a measure to authorize bonds of a sufficient amount for solid waste. We believe they would do this if you and the DEQ can advise them that you have a reasonable program.

If your program of disposal and your user charges are acceptable to the majority of the people revenue bonds should be an easy matter to pass, while general obligation bonds would surely have some vociferous opponents.

5. We believe prompt action to devise and implement a plan is essential so that the validity of the user charges on vehicular equipment can be tested while the Legislature is in session; legislative authorization of state bonds can be made by the Legislature, and any other uncertainties in the commission's powers rectified.

We regret that we have not touched on sewerage or surface water problems and the financing thereof, but we felt that solid waste was both the neediest and in some ways the easiest to pursue for fact action.

Respectfully submitted,

CAKE, JAUREGUY, HARDY, BUTTLER & McEWEN


Herbert C. Hardy

HCH:chw

EXHIBIT A

SERVICE OR USER CHARGES

A. What is a user charge?

The terms "service charges" and "user charges" are used interchangeably in the Metropolitan Service Districts Act (ORS Chap. 268), hereinafter referred to as the "Act" and in other Oregon statutes and have the same meaning. In this memorandum we will use the term "user charges".

According to Kliks v. Dallas City, 216 Or 160 (1959), which was a suit by apartment owners to have ordinances setting water rates for apartments declared void as discriminatory and unreasonable, a user charge " 'is an attempt to make the incidence of the burden as wide as the incidence of the benefit.' " In other words, user charges are fees paid by those who use and benefit from publicly provided services. User charges are not new to Oregon. They are specifically authorized for Sanitary Districts and Authorities, ORS 450.130; for County service facilities, ORS 451.500; for domestic water supply corporations, ORS 264.310; and for people's utility districts, ORS 261.465.

B. What factors should be used in determining the user charge?

The Act provides that a District may impose and collect service or user charges in payment for its services. ORS 268.540. In the Special Assessment Section, the Act provides that the governing body may provide in an appropriate ordinance that "the cost of such improvements, construction or acquisition shall be paid in part by assessments against the property directly benefited and in part out of general funds, ad valorem tax levies, the proceeds of the sale of bonds, service charges, or any combination of such sources." ORS 268.510(2) (emphasis supplied). The Oregon Supreme Court in the Kliks decision stated that generally the recovery of two types of costs are normally contemplated by user charges:

- "(1) the expenses incident to the service of customers in maintaining and reading meters, in keeping customers' accounts and billing them each month, in repairing pipes and other equipment used exclusively in furnishing customers with the service, and similar expenses;

- (2) The expenses incident to the maintenance of the plant so that the utility has a capacity to supply its customers whenever there is a demand for the commodity being furnished, embracing items of capital outlay for plant and equipment, and operating and other expenses relating to the utility plant as a whole. Here expenses are incurred in constructing and maintaining a plant which can meet the customers' potential use. The charge to recover these costs is sometimes called a readiness-to-serve charge ..."

A user charge, therefore, must be based on factors directly relating to the cost of furnishing the services.

- C. For what purposes can the District use the revenue from user charges?

As indicated above, they may be used in payment of services rendered and may be used to finance the costs of improvements, construction, or acquisition. In an opinion issued February 2, 1970, number 6695, the Attorney General stated:

"It is abundantly clear, therefore, nothing in the Act (Metropolitan Service District Act) prohibits the use of service or user charges for the operation of the District, for capital improvements and maintenance thereof, and for the payment of bond principal and interest."

Sanitary Districts under ORS Chapter 450 are specifically authorized to use service charges for financing the construction, operation and maintenance of the system. ORS 450.130.

- D. May service charges be levied prior to providing the actual service?

The Oregon Supreme Court has held that a Sanitary District may assess and require payment for improvements before construction is commenced. Aloha Sanitary District vs. Wilkins, 245 Or. 40, 45 (1966). The Court reached this decision by holding that statutory authorization for pre-assessment can be implied from the grant to the Sanitary District of certain powers, namely, the power to assess property directly benefited by the service and the general power to perform any act necessary to implement its special powers. In the Act we have explicit rather than implied

authority to finance the construction and acquisition of improvements. The Court noted in the Aloha case that such financing is necessary, especially where the District finds it impossible to finance a project through the sale of bonds or general obligation improvement warrants.

- E. May a user charge be collected in different areas in a District at different rates?

This question was also answered in the affirmative by the Attorney General's Opinion issued February 2, 1970. User charges may be collected in different areas at different rates if the rate variations are reasonable and related to the cost of providing the service.

User charges on motor vehicles -- certain constitutional problems.

One of the biggest solid waste problems is the automobile. We are faced with disposal of not only the vehicle but also its associated parts: tires, discarded parts, batteries, engine oils, anti-freeze, etc. The Oregon Constitution restricts the use of tax proceeds derived from the "use" or "sale" of motor vehicle fuel or any other product used for the propulsion of motor vehicles" and the use of tax proceeds derived from the "ownership, operation or use of motor vehicles" to construction, maintenance and "policing of public highways, roads and streets within the State of Oregon...." Oregon Constitution, Article IX, Sec. 3.

We have not had sufficient time to make an exhaustive review of the written authorities to determine whether automobile tires, engine oils, anti-freeze, grease and batteries are "other products used for the propulsion of a motor vehicle" or whether a user charge on a motor vehicle, the products listed above and automobile replacement parts would be a tax on the "ownership, operation or use of motor vehicles."

We are of the opinion, however, that the plain meaning of the language contained in Section 3, Article IX would seem to exclude the application to tires, engine oils and repair parts normally sold separately and apart from the sale or use of the vehicle and which in and of themselves would not normally be considered a propellant.

April 15, 1971

Mr. Eldon Hout, Chairman
Metropolitan Service District
Washington County Courthouse
Hillsboro, Oregon

Dear Mr. Hout:

In our letter of October 23, 1970, we discussed various methods of financing the Metropolitan Service District (MSD) in the area of solid waste, one of which was a user charge on certain vehicular items, such as tires, lubricating oils and greases and automobile replacement parts.

Applicability of Constitutional Restrictions.

In that letter we indicated that Section 3 of Article IX of the Oregon Constitution contained certain restrictions on the use of proceeds from taxes on motor vehicle fuel and on the ownership, operation and use of motor vehicles, the pertinent portion of which is set forth below:

"The proceeds from any tax levied on, with respect to, or measured by the storage, withdrawal, use, sale, distribution, importation or receipt of motor vehicle fuel or any other product used for the propulsion of motor vehicles, and the proceeds from any tax or excise levied on the ownership, operation or use of motor vehicles shall, . . . be used exclusively for the construction, reconstruction, improvement, repair, maintenance, operation, use and policing of public highways, roads and streets within the State of Oregon, . . ."
(Emphasis Added).

It is our opinion that the aforementioned constitutional restrictions do not apply to the proceeds of a user charge on tires, lubricating oils and greases and automobile replacement parts for the reasons set forth below.

Mr. Eldon Hout, Chairman
Metropolitan Service District

Page Two

A. User charges are fees paid by those who use or benefit from publicly provided services. User charges have been treated by the Oregon Supreme Court as a charge imposed for a service rendered based upon an implied contract rather than as a form of taxation.¹ The Constitutional restrictions explicitly apply to "taxes and excise" and would therefore not apply to user charges.

B. A relatively recent Oregon Supreme Court case held that a one-cent-per-acre levy for the payment of fire protection and suppression expenses was not an exercise of the state's taxing power but rather an exercise of the state's police power.² The court held that the constitutional provision requiring uniformity of taxation did not apply to the levy under consideration.³ The cost of exercising police power can be assessed to the persons necessitating its exercise.⁴ When the cost of the exercise of the police power is to be paid only by "the persons or property causing the exercise of the police power, such limitations (constitutional limitations upon the power of taxation) are irrelevant."⁵

The control, collection and disposal of solid waste by a municipal corporation is a function of the municipal corporation's

¹ City of Stanfield vs. Burnett, 222 Or 427, 435 (1960); 14 McMillan Mun. Corp. Section 31.30a p. 248; Opinion of the Justices, 39 A2d 765, 767 (NH 1944)

² Sproul vs. State Tax Com., 234 Or 579, 581 (1963)

³ "The Oregon Constitutional provision requiring uniformity of taxation does not restrict the state in its exercise of the police power, as distinguished from the taxing power. Starker vs. Scott, 183 Or 10, 15, 190 P2d 532. This proposition is universally accepted and is grounded on the reasoning that the primary purpose of the money exaction is not to raise revenue, but to directly promote the public welfare. 4 Cooley, Taxation (4th Ed). Sec. 1784." 234 Or at p. 581-2.

⁴ Sproul vs. State Tax Com., 234 Or 579, 596 (1963)

⁵ 234 Or 592-3

Mr. Eldon Hout, Chairman
Metropolitan Service District

Page Three

police power.⁶ The Metropolitan Service District Act (Act) explicitly states that a MSD is a municipal corporation⁷ and can exercise police power.⁸ Thus, solid waste disposal is clearly an exercise of police power and the charge therefor is an exercise of police power and not subject to the constitutional limitations on taxation. This does not mean, however, that the cost of the exercise of police power can be based on an unfair or discriminatory system. A user charge must be based on factors directly relating to the cost of providing the services.

C. Assuming user charges were construed to be a form of taxation there are other reasons why we feel that the constitutional restrictions would not prohibit the use of proceeds from the user charges for the purposes outlined in the Act.⁹

1. A user charge on tires, lubricating oils and greases and replacement parts is not a charge levied on the "ownership, operation or use of motor vehicles." The charge is levied for the disposal of such items. The charge is measured by the cost of disposing of the item and is not measured by value or purchase price. In 1956, the Oregon Attorney General was asked whether receipts from a proposed retail sales and use tax would have to be allocated to highway purposes according to Section 3. The Attorney General found that the sales tax was a privilege tax on the right to engage in a retail trade and not a tax on the ownership of a motor vehicle. The opinion noted the distinction between an exaction for a particular privilege and a levy for ownership, operation or use and stated:

⁶ *Sproul vs. State Tax Com.*, 234 Or 579, 591 (1963); " . . . a city has authority, in the interest of public health and cleanliness, to regulate and provide for the disposal of garbage." *Spencer vs. Medford*, 129 Or 333, 338 (1929)

⁷ ORS 268.300

⁸ ORS 268.360

⁹ The proceeds of a user charge may be used for the operation of the district, for capital improvements and maintenance thereof and for the payment of bond, principal and interest. ORS 268.510(2); see Attorney General's Opinion No. 6695 (Feb. 2, 1970).

Mr. Eldon Hout, Chairman
Metropolitan Service District

Page Four

"It is apparent that regulatory powers such or its political subdivisions may often relate to motor vehicles without constituting a tax such as described in the constitution. The regulation of traffic on city streets, for example, may require the installation of parking meters and the exaction of parking fees. The fee, in such cases, is for the privilege of using the city streets and not for that of operating a motor vehicle."¹⁰

Such an example is pertinent here. The user charge is levied for the privilege of having a political subdivision dispose of certain solid waste items. It is our opinion that in this situation a user charge is an exaction for a particular privilege not related to the ownership, use or operation of a motor vehicle.

2. Tires, lubricating oils and greases and replacement parts are not "motor vehicle fuel(s)." Motor vehicle fuel is defined to include gasoline and any other inflammable or combustible gas or liquid, by whatever name such gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles.¹¹ One Court has held that oils and greases for lubricating pistons, crank shafts, transmissions and differentials of motor vehicles did not come within the statutory definition of "fuel."¹²

3. We think it is also quite clear that tires, lubricating oils and greases and replacement parts are not included within " . . . any other property used for the propulsion of motor vehicles"; they do not provide the force or initiative for propelling a motor vehicle on a highway.

For the reasons stated above we feel that a user charge on tires, lubricating oils and greases, antifreeze and replacement parts are not covered by the constitutional restrictions of Article IX.

¹⁰ 1954-56 *Opinion of the Attorney General*, Page 20, 21

¹¹ ORS 319.010(11)

¹² *Aetna Casualty and Surety Co. vs. Kimball*, 222 NW 31 (Iowa 1928).

Mr. Eldon Hout, Chairman
Metropolitan Service District

Page Five

Copies of this letter are being sent to all Board members. If you have questions, please call.

Very truly yours,

CAKE, JAUREGUY, HARDY, BUTTLER & McEWEN

~~Dean-P. Gisvold~~

H C H

HCH :DPG:tw

cc: All Board members

CAKE, JAUREGUY, HARDY, BUTTLER & McEWEN
ATTORNEYS AT LAW

1408 STANDARD PLAZA
PORTLAND, OREGON 97204
226-7321

3

RALPH H. CAKE
NICHOLAS JAUREGUY
HERBERT C. HARDY
JOHN H. BUTTLER
DONALD W. McEWEN
ROBERT L. WEISS
JONATHAN U. NEWMAN
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JOSEPH J. MANNA, JR.
DEAN P. GISVOLD
GEORGE C. REINMILLER
ROBERT D. RANKIN
JOHN S. MORRISON
THOMAS L. GALLAGHER, JR.

April 26, 1971

Board of Directors
Metropolitan Service District
Portland, Oregon

Gentlemen:

Enclosed is the final letter sent to the Ways
and Means Committee.

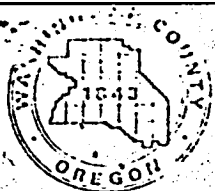
Sincerely,

CAKE, JAUREGUY, HARDY, BUTTLER & McEWEN

HCH

Herbert C. Hardy

HCH*rg
Enc.



WASHINGTON COUNTY

COURTHOUSE—SECOND & MAIN STREETS
HILLSBORO, OREGON 97123

(503) 648-8681

BOARD OF COMMISSIONERS

ELDON HOUT, Chairman
JOHN C. ANICKER
LYELL GARDNER
WILLIAM MASTERS
BURTON WILSON, Jr.

April 19, 1971

Senator Berkeley Lent
Chairman Ways & Means Committee
State Capitol
Salem, Oregon 97310

Re: Metro Service District planning funds

Dear Senator Lent:

Following our meeting of March 29th, the board of the Metropolitan Service District (M.S.D.), the three county engineers and legal counsel have been preparing an analysis of the planning needs of the district which we submit to you herewith. First there is a general statement of the factors involved, and then attached to this letter is a detailed list of the items for which planning funds are needed.

Chapter 268 ORS was adopted in part for the purpose of providing a method of solid waste disposal not adequately available through other governmental agencies. (268.030) To properly meet the obligation placed upon the board it is essential we obtain the most competent advice available from engineers, scientists, architects and financial experts to develop a complete program covering each of the following phases of the waste program:

- (1) The methods of collection of wastes from the home and industry.
- (2) A system of transportation of all wastes in various stages of the handling thereof, including everything from the gathering thereof to the disposal of all by-products.
- (3) The disposal of wastes. In this connection it is necessary to consider the present state of the art looking at all known means of disposal such as salvage, recycling, compaction, conversion, incineration and sanitary landfill.
- (4) A system of financing all phases of the total

April 19, 1971

program, including the basic source of revenue (principally user charges); determining capital costs, operating, and management costs; bonding and state and federal assistance.

Insofar as it is possible, counties and cities of the district will provide assistance from their respective personnel. Likewise, all existing studies made by or for the governmental units will be utilized. Furthermore, we hope to obtain the participation and cooperation of representative citizens, the collectors of solid waste and the salvage collectors, the aid and expertise of private industry involved in paper, metal and glass recovery, the help and advice of the Department of Environmental Quality, the Board of Health and other state agencies having a vital concern in the field of solid waste.

There is very little to guide us as to the cost of this total planning. Other cities have varied greatly in cost; there is a paucity of regional projects, but our staff's best estimate of total costs of the planning (which includes preliminary engineering and architectural plans, and a final financing program) is the sum of approximately \$500,000 to \$600,000. We are informed that while no monies are presently available, there is likely to be some Federal funds available for this type of planning in the next few months on the basis of 3/4 Federal to 1/4 local. However, if by August 31, 1971 it appears that Federal funds will not be available in the near future, then we believe we must proceed without Federal aid because of the critical need for some place to dispose of the current and increasing volume of solid waste in the tri-county area. If this becomes necessary we would have to rely on either an outright appropriation from the state, or be permitted to obtain the money through state bonds "for planning", which would require a legislative act. In light of the foregoing it is our request that Ways and Means take steps to assist us as follows:

- (1) Have an appropriation of \$150,000 as the state or local share of any Federal grant for planning.
- (2) If by August 31, 1971 it appears that no Federal funds will be available, then authorize the use of \$600,000 worth of pollution bonds for planning purposes, 3/4 of the amount to be repaid either by a subsequent Federal grant, or by reimbursement from district revenues over a period of time.

Page Three
Senator Berkeley Lent
April 19, 1971

- (3) Increase the authorized amounts of state pollution bonds available in the next biennium by \$25,000,000 over and above the current amount authorized by HB 1185, and to allow such additional amount to be used for financing solid waste installations with or without state or Federal grants.

The foregoing requests and the attachment have the approval of all the members of the Board of Directors of the Metropolitan Service District, except Commissioner Mel Gordon who has neither approved nor disapproved of the same.

Very truly yours,

METROPOLITAN SERVICE DISTRICT

By 

Chairman

BASIC STUDY NEEDS

- I. ENGINEERING (The systems and their costs).
 - A. Define Waste.
 1. Volume - existing, future.
 2. Composition of wastes.
 3. Generation area.
 - B. Collection of Waste.
 1. Existing situation.
 2. Householder involvement.
 3. Industrial & commercial involvement.
 4. Special & hazardous wastes.
 - C. Transportation.
 1. Existing equipment.
 2. Study supplemental haul methods.
 3. Type & location of transfer stations and equipment.
 4. Long haul systems.
 - D. Disposal.
 1. Volume Reduction.
 - a. Recycling
 - b. Incineration
 - c. Compaction
 - d. Shredding
 - e. Conversion
 - f. Baling
 2. Final Disposal.
 - a. Transportation
 - b. Marketing
 - c. Landfill
 - d. Site investigations

II. ENVIRONMENTAL IMPACT.

- A. Air pollution.
- B. Water pollution.
- C. Visual pollution.
- D. Noise pollution.
- E. Odor pollution.
- F. Land pollution.

III. FINANCIAL.

- A. Capital Cost.
- B. Maintenance and Operations.
 - 1. Personnel.
 - a. Integration of existing personnel into existing system.
 - b. Additional personnel if needed.
 - c. Salaries and fringe benefits in relation to union policies.
 - d. Contracting with private sector.
 - 2. Equipment, services and supplies.
- C. Revenue.
 - 1. User charges.
 - 2. Special service fees.
 - 3. Collection and disposal fees.
 - 4. Grants and gifts.
 - 5. Salvage revenue.
 - 6. Other.

III. FINANCIAL (Continued).

D. Financing Plan.

1. General Obligation Bonds.
2. Revenue Bonds.

IV. CITIZEN INFORMATION AND PARTICIPATION PROGRAM.

- A. Inform.
- B. Involvement.
- C. Approval.
- D. Acceptance.

LIST OF ITEMS FOR POSSIBLE USER CHARGES

Motor or Mobile Vehicles:

Automobiles	Anti-freeze
Trucks	Brake fluid
Truck trailers	Greases
Commercial buses	
School buses	
Vans	
Camper attachments	
Camper or travel trailers	
Mobile homes	
Motorcycles	
Motor bikes	
Motor scooters	
Snowmobiles	
Dune buggies	
Bicycles	
Tricycles	
Wagons	
← Replacement and spare parts	
Tires	
Lubricating oils	

90-9590 120N

Auto 150 lbs of
non-salvage mat.

Problems Use

Agricultural equipment:

Metals	Tractor
	Combine
	Any other farm implements and heavy equipment

Industrial:

Metals	Trade fixtures
	Office equipment (such as desks, filing cabinets, etc.)
	Phones
	Demolition wastes
	Signs

Boats and Boat Trailers:

wood, plastic, metal, - how to

Row boats
Canoes
Kayaks

Motor boats
Yachts
Sail boats
Boat trailers
Water skiis
Life preservers
Boat motors (both outboard and inboard)

Airplanes:

Commercial planes
Private planes
Sea planes
Glider
Motors for planes

Household items:

Ranges
Stoves
Refrigerators
Dishwashers
Garbage disposals
Washing machines
Dryers
Deep freezers
Hot water tanks
Fuel oil tanks
Furnaces
Air conditioning units *Refrigerator*
Television sets
Radios
Lawnmowers
Other garden and lawn equipment
 (such as edgers, leave collectors, rakes
 hose, etc.)
Garbage cans
Sleds
Toboggans
* Skiis.
* Ski poles
Power tools
Hand tools
* Plastic apparel (such as plastic women's purses)
Electric make-up mirrors
* Home hair dryers
Toasters
Frying pans
* Toaster ovens
Home compactors ?
* Garden hoses
* Plastic Problem many capabilities

Containers:

Plastic bottles
(and other kinds of containers)
Pressurized cans

ORVAL ETTER

LOCAL GOVERNMENT RESEARCH AND CONSULTATION
2783 ALDER, EUGENE, OREGON 97405

September 25, 1970

To: Kay Rich

From: Orval Etter

Re: Special assessments

This memorandum responds to your request that I set down on paper the substance of comments I have made from time to time about special assessments as a neglected source of revenue for local governmental units, including the metropolitan service district recently established in the Portland metropolitan area. Under §18(1) of the enabling act under which the district has been established the district has power to "levy special assessments against the property within the district in proportion to the benefits such property might have or receive on account of the construction or acquisition of a facility or the furnishing of a service which the district is authorized to furnish."

My thought about special assessments as a source of municipal revenue were stimulated several years ago by the opinion of the Oregon Supreme Court in Sproul v. State Tax Commission, 234 Or. 579, 383 P.2d 754 (1963). In that case the court upheld what certain legislation denominated "a tax upon the owners of Class C forest lands for the privilege of using such lands." 234 Or. at 581. The purpose of the so-called tax was to help finance a system of protection from forest fires. The so-called tax was levied at the rate of one cent per acre. The plaintiff contested the levy on the ground that it was not ad valorem and therefore violated constitutional requirements of equality and uniformity in taxation.

In upholding the levy the court said that, while the legislature's denomination of the levy as a tax was "an important factor to be considered in determining into what category to place the levy," the legislative "label" was "not conclusive of the nature of the levy." The court denominated it "an assessment." "We hold that the levy is not an exercise of the state's taxing power," the court said. "We conclude that such levy is an exercise of the state's police power." 234 Or. at 581. Conceding that persons and property "necessitating the state's exercising its police power cannot be made to pay for the cost of such exercise on an unfair or discriminatory basis," the court went on to hold that the levy of the assessment by the acre was reasonable and fair. 234 Or. at 596, 599-600.

In its opinion the court considered an apparent objection that the police power is regulatory only. The court answered:

"Does the fact that this part of the fire protection and suppression program does not 'regulate' mean that it is not an exercise of police power, but rather an exercise of the taxing power? We do not believe so.

"The statute is interpreted to be legally similar to a hypothetical statute in which the state directly performs all the fire protection and suppression and assesses the cost thereof to all forest landowners, prorating the assessment on an acreage basis; under the hypothetical statute, no direction or 'regulation' is imposed on the landowner. Attempting to put this in sharper focus, the present statute is regarded as legally similar to a hypothetical city ordinance which finds that a certain geographical area of the city requires more police protection than other areas and the

cost of this additional police protection is charged to this particular geographical area and assessed on a pro rata per-unit-of-area basis.

"The question is,--when the government acts to promote the public welfare by direct action rather than by regulation, is such direct action an exercise of police power and can the cost of such action be exacted from the particular persons or property who necessitate the government action and on a basis other than the value of the property involved?" 234 Or. at 589.

This question the court goes on to answer affirmatively. But before it does so the second sentence in the second quoted paragraph constitutes a suggestive approach to the general problem that cities face of coming up with revenue adequate for their needs. And the statement of the question in the third quoted paragraph, together with the affirmative answer to the question, constitute a part of the legal basis for assessments made under §18(1) of the metropolitan service district act.

In this connection it should be pointed out that the court did not clearly call the contested acreage levy a special assessment. The court said:

"This discussion does not necessarily lead to the conclusion that the cent-per-acre assessment in this case should be classified as a 'special assessment.' The law of 'special assessments,' however, is analogous. It is analogous by illustrating that when certain property necessitates or makes it desirable for the state to exercise its police power, that property can be required to pay for the cost of that exercise of the police power and the constitutional limitations upon the power of taxation are not applicable." 234 Or. at 592.

Note well the implications of that last clause for governmental agencies encumbered by the six percent tax limitation!

The paragraph just quoted, together with related paragraphs in the opinion, strike me as a bit of quibbling about the proper name for the cent-per-acre levy. Justice Sloan in a specially concurring opinion argued that the court might as well call the levy a tax. As such, he declared, the levy could be sustained under the power of the legislature to classify property for purposes of taxation. One of the reasons for his analysis, he said, was the "ever more diligent search by local and state governments to find new forms of taxation." 234 Or. at 603.

Whatever the most appropriate name for the contested acreage levy, the court upheld the levy partly on the basis of judicial doctrine in other states "that the state can require the property owners who have caused the state to exercise its police power to pay for the exercise of such police power" in other than "'special assessment' cases." In elaboration of this doctrine the court said:

"Foster's, Inc. v. Boise City, 63 Idaho 201, 118 P.2d 721, upheld a municipality's right to install parking meters. *
* * The Idaho court said:

"'Effective exercise of the police power necessarily involves expenditures in many ways. The means and instrumentalities, by and through which the supervising powers of the policing authority are brought to bear on the subject to be regulated, involve costs and expenses. It is only reasonable and fair to require the business, traffic, act, or thing that necessitates policing, to pay this expense. * * *'

"A South Carolina law recited: 'Whereas the lands of Sullivan's Island have been set apart for such citizens of this state as may resort thereto for the purposes of health, and to this end have been placed under the regulation of the town council of Moultrieville; and whereas, in order to secure the purposes for which the lands have been so set apart, it is essential that the . . . town council should be empowered to secure such means as may be necessary to carry out the ends proposed: (1) . . . the town council . . . are hereby authorized by ordinance, to assess each lot owner on said island for each and every lot possessed by him or her such sum or sums of money, not exceeding ten dollars for each lot, as the . . . council may deem necessary, for the purposes of keeping in proper order the streets, ways, beaches, and commons of the island and the health of the same.'" . . .

"In Thomas v. Town Council, 52 SC 181, 29 SE647, the court upheld an \$8 per acre assessment under the above statute. The landowner relied upon the state constitutional provision that: "All property subject to taxation shall be taxed in proportion to its value.'" . . . The court said:

"' . . . When the town council . . . required each owner of a lot to pay the sum of eight dollars to keep up the streets, ways, beach, commons, etc., it was strictly within its chartered rights. This in no way contravenes the constitution . . . It is not a tax upon property. It seems to us to belong to the exercise of the police power'

"There was an Oklahoma law which provided for an assessment of one percent of a bank's deposits. The proceeds of this assessment were used to create a depositors' guaranty fund. The validity of this statute was upheld in Noble State Bank v. Haskell, 219 US 104 Mr. Justice Holmes, speaking for the court, stated:

"' . . . there may be other cases beside the everyday one of taxation, in which the share of each party in the benefit of a scheme of mutual protection is sufficient compensation for the correlative burden that it is compelled to assume. . . . At least, if we have a case within the reasonable exercise of the police power as above explained, no more need be said.' . . .

"A Tennessee law required a public utility to pay fees, proportioned upon its gross receipts, into a fund to be used 'for the inspection, control, and supervision of the business, service, and rates' of public utilities. The utility contended that this exaction of fees was a tax. In Memphis Natural Gas Co. v. McCanless, 183 Tenn 635, 194 SW2d 476, the court held to the contrary, stating:

"' . . . Such a levy is a special assessment for a specific purpose and lack essential elements of a tax

"'Even if the purpose of the assessment was limited to the exercise of the police power, fees imposed to defray the expenses of that exercise are not objectionable. . . . ' . . .

" . . . when persons necessitate the exercise of police power, the cost of exercising such power can be assessed to the persons necessitating its exercise." (Emphasis supplied.)

I'm sure I do not see all the import of Sproul v. State Tax Commission for municipal and metropolitan-service-district finance in Oregon, but I do think the case suggests fiscal approaches that may be highly important ones to explore.

June 6, 1973

TO: METROPOLITAN SERVICE DISTRICT BOARD
FROM: MSD STAFF
SUBJECT: STAFF REPORT FOR JUNE 8, 1973 MSD BOARD MEETING

Presented to the Board herein for transmittal, information and recommended action are the following items:

INFORMATION

1. Solid Waste Management Study Progress Report

ACTION REQUIRED

2. Recommendation relating to Bottle Systems, Inc. Proposal
3. Review and Recommendations - MSD Tire Ordinance and MSD Tire Processing and Disposal Regulations, Appendices I and II.
4. Recommend acceptance and transmittal of Special Condition Reports to DEQ

REVIEW

5. Financial Sources Memorandum, Appendix III

NEW BUSINESS

ACTION REQUIRED

6. Public Information Exchange Program

1. SOLID WASTE MANAGEMENT STUDY - PROGRESS REPORT

The Solid Waste Management Study has been in progress four months. Since the last report, the engineering and financial consultants have nearly completed their evaluations on existing systems. Further, COR-MET has completed and submitted to MSD five Special Condition Reports required by DEQ. Progress has continued on development of the Tire Ordinance and Tire Processing and Disposal Regulations with final drafts included in this report for MSD Board action.

A Public Information Program has been developed for the Solid Waste Study. Work by both MSD Technical and Citizen Advisory Committees have greatly contributed to the products that have been presented to the Board.

2. BOTTLE SYSTEMS, INC. PROPOSAL

On April 27, 1973, Bottle Systems, Inc. proposed that the Board seek feasibility study funds (\$50,000) from DEQ. This study would determine the market feasibility for a machine to sort, count and store returned bottles. This machine is envisioned to reduce handling time by the major grocery chains and provide easy customer service.

At the last meeting, the MSD Board referred the proposal to the TAC. At the May 7, 1973 Technical Advisory Committee meeting, the following action was taken:

"Mr. Meng moved to report to the MSD Board that this committee has considered the Bottle Proposal, and in this committee's opinion it has merit and might further help to strengthen the Bottle Bill; however, the problem is statewide and affects the industry to a greater extent than it does the public. This committee, therefore, would recommend that the MSD Board refer the matter to the State of Oregon. Mr. Kurth seconded the motion. The motion carried unanimously."

In addition, the MSD staff has proposed criteria for evaluating future proposals that may come before the MSD Board. The initial draft was presented in the May 11, 1973 Staff Report.

Action Required

It is the staff's recommendation that the MSD Board refer this matter to the appropriate department of the State of Oregon.

3. MSD TIRE ORDINANCE AND TIRE PROCESSING AND DISPOSAL REGULATIONS
(See Appendices I and II)

Since the last MSD Board meeting, approximately four formal meetings and numerous informal meetings have been held with the TAC, CAC, and representatives of legal counsel, tire haulers, Retail Tire Association, and disposal site operators in the region. These discussions have centered around development of two ordinances that would establish controls on handling and processing scrap tires. Appendices I and II contain final drafts of these ordinances.

The MSD Technical Advisory Committee took action on these issues as follows:

"Mr. Kurth moved that the Technical Advisory Committee accept the revised fifth draft of the MSD Tire Ordinance and to recommend approval by the MSD Board. The motion carried unanimously."

"Mr. Howard moved that the Technical Advisory Committee forward the fourth draft of the MSD Tire Processing and Disposal Regulations with amendments to the MSD Board with our recommendation for adoption. The motion carried unanimously."

In addition, the MSD Citizens Advisory Committee in their review of the ordinances by consensus recommended adoption of both ordinances.

Action Required

Therefore, it is the staff's recommendation that the MSD Board announce and hear testimony on the MSD Tire Ordinance and the MSD Tire Proprocessing and Disposal Regulations at their regularly scheduled meetings of June 8, 1973 and July 13, 1973. Further, it is recommended that the Board adopt after necessary revisions, the Ordinances at the earliest date.

4. SPECIAL CONDITION REPORTS

As required by Special Conditions, Section III of the DEQ Solid Waste Implementation Planning Grant Offer and Acceptance, the MSD was received from the engineering consultants (COR-MET) the interim reports regarding:

- A. Hidden Valley Disposal Site
- B. Clatskanie Disposal Site
- C. City of Portland Landfill
- D. Boeing-Boardman Project
- E. Septic Tank Pumpings

These reports were reviewed by the TAC and CAC. The Technical Advisory Committee took the following action:

"Mr. Howard moved that the Technical Advisory Committee transmit the COR-MET Special Conditions Interim Report to the MSD Board without comment but with the suggestion that staff make comment on the report. The motion carried with one no vote."

The Citizens Advisory Committee by consensus (due to lack of a quorum) recommended that the interim reports be forwarded to the MSD Board for approval.

Action Required

The MSD staff has transmitted copies of this report to concerned disposal site operators, the Boeing Company representative, and other citizens. In addition, representatives of DEQ have been involved in report review. Several specific recommendations presented in the interim report are directed at DEQ for their action.

The report on Septic Tank Pumpings describes a problem that could be solved if the present system were properly enforced. This would indicate that periodic review of the effectiveness of DEQ and county regulations by MSD would be appropriate. MSD could contribute in the area by developing model ordinances for use by the counties.

In summary, the staff concurs with recommendations presented by COR-MET. Further, staff recommends the MSD Board approve the reports and direct that they be transmitted to DEQ.

5. REVIEW OF FINANCIAL SOURCES MEMORANDUM

The attached Appendix III presents staff comments relating to possible sources of funding for the Metropolitan Service District. This item is a carryover from the last meeting with detailed exhibits presented in the May 11, 1973 Staff Report. This memorandum is provided for the Board's information and no action is required.

6. PUBLIC INFORMATION PROGRAM

A proposed Public Information Exchange Program was transmitted to the Board from COR-MET on June 1, 1973. This program will be performed by the firm of Denny-Wagoner-Wright for a total sum of \$22,975. Further, this effort will require a contract be consummated between COR-MET and Denny-Wagoner-Wright.

The Solid Waste Management Study work scope Task 1 identifies that a maximum of \$5,000 will be used for tabloid newspaper. However, this proposed program will require an expenditure of \$14,100 for that purpose. If this program is acceptable to the MSD Board, then a contract revision will be necessary to change the dollar amount of \$5,000 to \$14,100. It should be noted that no additional funds are required, the change is just a redistribution of the \$37,700 allocated in Task 1 of the work scope.

Action Required

The staff recommends approval of the proposed Public Information Exchange Program and further recommends the contract (Task 1 of the Work Scope) be revised to read:

"Included in this effort shall be a general summary document of the final project plan, to be reproduced in quantity for public distribution, but with expenditures for preparation, printing, and distribution of said document not to exceed \$14,100 of the total fund allocated to Task 1."

A P P E N D I X I.

MSD TIRE ORDINANCE

SECTION I. Definitions

1. "Board" means the governing body of the Metropolitan Service District.
2. "Disposal" means the discarding or processing of a motor vehicle tire as waste. It does not include the salvaging of tires for resale, recapping, or re-manufacture into other products.
3. "Disposal site" means a disposal site for solid waste operating under a permit granted by the Department of Environmental Quality pursuant to ORS 459.205 to 459.265.
4. "Motor vehicle tire" or "tire" means any tire made wholly or in part of rubber used on any vehicle propelled by a motor, including vehicles pulled or pushed by a vehicle propelled by a motor, regardless of whether such vehicle is used on a public highway; it includes scrap tires, tire bodies, carcasses, casings or parts of tires in whatever form, except those intended for a use other than on vehicle wheels.
5. "Person" means any individual, firm, corporation, partnership or other entity as the context may require.
6. "Retail sale" means a sale for any purpose other than resale in the regular course of business; it includes sale of tires as incidental to the sale of a motor vehicle or other item. The sale of more than one motor vehicle tire to any one person at any one time shall constitute one retail sale.
7. "Scrap tire" means any tire which has been used, or new tires to be discarded for any reason, whether or not it is in such condition as to be reused, recapped or otherwise salvaged.
8. "Scrap tire generator" means any person who, as part of the normal course of business, generates more than 100 scrap tires annually. It includes, but is not limited to, vehicle fleet owners, trucking companies, taxi companies, bus companies, and public agencies.

9. "Tire Carrier" means any person engaged in picking up or transporting scrap tires for the purpose of disposal or salvage and disposal, whether or not incidentally to some other business.
10. "Tire processing center" means a place or piece of equipment where or by which scrap tires are processed to such a form as to be acceptable in a disposal site.
11. "Tire retailer" means any person engaged in the business of selling motor vehicle tires at retail sale whether or not such sale is incidental to some other business or whether such tires are incidental to the sale of a motor vehicle; it includes every person who makes more than two retail sales of motor vehicle tires in any calendar year.

SECTION II. Permits

No person may act as a tire carrier within the Metropolitan Service District without first obtaining a permit from the District. The District shall issue forms on which applications for such permit can be made; on such forms the applicant for a permit shall set forth:

1. Name and place of business.
2. The principal business in which he is engaged.
3. Whether he is engaged in any type of salvage of tires such as recapping or sorting of tires for recapping.
4. Number of trucks and identification.
5. Such other information as the Metropolitan Service District shall require.

A permit shall be issued for a period of one year. The fee for such permit is \$10 for each tire carrier, which includes a permit for one vehicle. The fee for each additional vehicle owned or operated by a tire carrier is \$5.

SECTION III. Permit Exclusion

1. Except as provided in subsection 2, no permit is required of a tire carrier who transports fewer than 10 scrap tires at any

- one time in any one vehicle and who also transports no more than 300 scrap tires in a calendar year. This exclusion does not apply to anyone hauling tires 48 inches in outside diameter or larger.
2. No permit is required of a refuse collector operating under a license or franchise from the MSD or from any city or county in the Metropolitan Service District who transports fewer than 4 scrap tires at any one time in any one vehicle and who also transports no more than 100 scrap tires in any calendar year per vehicle.
 3. No permit is required of:
 - a) Tire carriers transporting scrap tires from one point outside the Metropolitan Service District to another point outside the Metropolitan Service District if no tires are picked up or disposed of within the Metropolitan Service District.
 - b) The state, a city, county, municipal corporation, special district or other political subdivision, any agency thereof or any employee thereof acting within the scope of his employment.

SECTION IV. Conditions for Permits

Any permit issued under this ordinance is conditioned upon the continued observance of all the terms of the permit, this ordinance and the solid waste ordinances or statutes of the state, Metropolitan Service District, and the county within which such carrier is operating.

SECTION V. Duties of Tire Carrier

Tire carriers subject to the permit requirements of this ordinance must deliver all those scrap tires picked up or transported by them for the purpose of disposal only to a disposal site authorized by this ordinance to accept tires in the form the tires are delivered, or to a processing center authorized by this ordinance.

SECTION VI. Duties of tire retailer and scrap tire generator

1. A tire retailer or scrap tire generator shall dispose of scrap tires only in the following manner:
 - a) By giving up said tire to a tire carrier operating under a permit granted pursuant to this ordinance; or
 - b) By himself transporting said tire to a disposal site authorized to accept the tires or to a tire processing center authorized under this ordinance.
2. A tire retailer or scrap tire generator choosing to dispose of scrap tires pursuant to subsection 1 b above must have a permit as a tire carrier if he exceeds the limitation of Section III on the number of tires transported.

SECTION VII. Acceptance of scrap tires by retailers.

If requested by a purchaser, a tire retailer must accept at the time of sale for each tire sold at retail sale one scrap tire from the purchaser. The tire retailer may charge the consumer upon the acceptance of the scrap tire a reasonable fee sufficient to cover his costs, if any, of storage, transportation, processing, and disposal.

SECTION VIII. Disposal of Tires

Tires may be accepted for the purpose of on-site disposal only at such disposal sites authorized by the Metropolitan Service District for disposal of tires. The operator of such a disposal site may dispose of tires only in a manner meeting Metropolitan Service District's specifications as set forth by regulations.

SECTION IX. Processing centers

Only those processing centers authorized pursuant to this ordinance to process tires may accept tires for processing. Such processing shall render the tires into such form as is prescribed by the Metropolitan Service District by regulation for disposal of the tires at an authorized disposal site. Authorized processing centers shall accept all tires of a size and type prescribed by the MSD.

SECTION X. Disposal site authorizations.

The Metropolitan Service District within thirty days of the effective date of this ordinance shall survey the disposal sites within the boundaries of the District and shall issue certificates of authorization to accept tires for on-site disposal to those disposal sites for which the technical and economic feasibility of disposing of tires in a manner or manners prescribed by the Metropolitan Service District by regulation can be demonstrated.

SECTION XI. Processing center authorization.

The Metropolitan Service District within thirty days of the effective date of this ordinance shall survey the processing centers within the boundaries of the District and shall issue certificates of authorization to accept tires for processing to those processing centers which demonstrate the technical and economic feasibility of processing said tires into a form prescribed by the Metropolitan Service District for incorporation into a disposal site.

SECTION XII. Acceptance of tires by disposal site.

All disposal sites which accept or hold themselves out as accepting refuse from the general public shall accept all tires brought to them by any person other than a tire carrier operating under a

permit granted pursuant to this ordinance, so long as such person does not deliver more than 10 tires to the disposal site in any one day. The operator of a disposal site may levy a unit charge per tire sufficient to cover the cost of storage and transportation to a disposal site or processing center authorized under this ordinance to accept such tires in their then present form for on-site disposal or processing, plus any subsequent processing and disposal costs. At regular intervals, tires shall be moved to an approved processing center or be processed.

SECTION XIII. Franchises

The Board may by resolution limit the number of permits granted pursuant to this ordinance and award exclusive franchises in defined areas and set fees for such franchises.

SECTION XIV. Records required

Every tire carrier, tire retailer, scrap tire generator, or owner of a disposal site or processing center shall keep such records or other pertinent papers in such form as the Board may require and shall deliver such records or papers to the Board when requested. The Board or their designated agent may at any reasonable time enter onto the business premises of any carrier, retailer, disposal site or processing center for the purpose of inspecting such records or papers.

SECTION XV. Extension of ordinance to areas outside MSD

The Board may by resolution make agreements with the governing body of any county which is partially or wholly within the Metropolitan Service District or of any county, whether in Washington or Oregon, which is contiguous to any county which is partially or wholly within the Metropolitan Service District to extend to any such

county or part of any such county the provisions of this ordinance or of any permit system, franchise system, or procedure for administration or enforcement of this ordinance drawn up pursuant to this ordinance.

SECTION XVI. Agreements for administration or enforcement.

The Board may contract with any county wholly or partially within the Metropolitan Service District or any county with which the Metropolitan Service District has made an agreement pursuant to Section XV, or with the state, any city or regional association of governments, for the administration or enforcement of any of the provisions of this ordinance or of the rules or resolutions adopted pursuant thereto.

SECTION XVII. Penal bond

Every applicant for a permit under Section II shall execute a bond in the penal sum of \$1,000 in favor of the Metropolitan Service District. Said bond shall be executed by the applicant as principal and by a surety company authorized to transact surety business within the State of Oregon. Such bond shall be filed with the Board in accordance with the following conditions: In the carrying out of the business of tire carriers, the principal shall comply with all the provisions of this ordinance and such regulations issued hereunder, and that any person injured by a failure to so comply may have a right of action on said bond in his own name; provided that such action be commenced within one year after the injury; but the surety on such bond shall not be liable thereunder to any person in an amount in excess of \$1,000.

SECTION XVIII. Violations

Violation of any provision of this ordinance or of any rule promulgated pursuant thereto is a class C misdemeanor, as defined by 1971 ORS 161.505 to 161.685 for the first offense, and a class B misdemeanor, as defined by 1971 ORS 161.505 to 161.685, for the second offense.

MSD TIRE PROCESSING AND DISPOSAL REGULATIONS

SECTION I. Definitions

1. "Board" means the governing body of the Metropolitan Service District.
2. "Disposal site" means a disposal site operating under a permit granted by the Department of Environmental Quality pursuant to ORS 459.205 to 459.265.
3. "Motor vehicle tire" or "tire" means any tire made wholly or in part of rubber and used on any vehicle propelled by a motor, including vehicles pulled or pushed by a vehicle propelled by a motor, regardless of whether such vehicle is used on public highways; it includes scrap tires, tire bodies, carcasses, casings or parts of tires in whatever form, except those intended for a use other than on vehicle wheels.
4. "Processed tire" means a tire that has been effectively reduced in size and shape to meet certain criteria.

SECTION II. Tire Disposal Sites

Disposal sites authorized by the Metropolitan Service District to accept tires for disposal in a landfill shall accept only tires that have been processed in accordance with Section III of this Regulation except that unprocessed tires greater than 48 inches in outside diameter may be accepted and incorporated in the landfill in a manner prescribed by Chapter 340, Oregon Administrative Rules and by the permit requirements written by the Oregon Department of Environmental Quality.

SECTION III. Tire Processing

Processes used by scrap tire processing centers shall be capable of meeting the following criteria:

1. Reducing the volume of 100 unprepared randomly selected tires in one continuous test period to less than 35 percent of the original volume, with no single void space greater than 125 cubic inches remaining in the randomly placed processed tires.
2. The test shall be as follows:
 - a. Unprocessed tire volume shall be calculated by multiplying the circular area, with a diameter equal to the outside diameter of the tire, by the maximum perpendicular width of the tire. The total test volume shall be the sum of the individual, unprocessed tire volumes.
 - b. Processed tire volume shall be determined by randomly placing the processed tire test quantity in a rectangular container and leveling the surface. It shall be calculated by multiplying the depth of processed tires by the bottom area of the container.

APPENDIX III

MEMORANDUM

May 10, 1973

TO: MSD Board Members
FROM: MSD Staff
SUBJECT: Funding Options for MSD

The purpose of this memorandum is to provide a summary of the funding options available to the Metropolitan Service District and to document what action has been taken to utilize these options to date.

Funding Options

As defined in ORS 298, the Metropolitan Service District has the following funding options:

1. Levy an annual property tax not exceeding one-half of one percent per year (apx. \$45 million) (268.500),
2. Levy special assessments against property within the District in proportion to the benefits received (268.510),
3. Issue general obligation bonds and/or revenue bonds the total value of which not exceeding ten percent of the true cash value to all taxable property within the District (apx. \$900 million) (268.520),
4. Impose and collect service and user charges in payment for the services of the District (268.540-1),
5. Receive grants from public and private sources (268.540-2), and
6. Borrow money from any county or city with territory in the District (268.540-3).

Discussion

In the general election of Nov. 1970, the MSD attempted to obtain voter approval of a serial levy of \$312,000 per year for a two year period. It was defeated by the voters within the District by a vote of 70,019 (yes) - 166,996 (no). This has been the only attempt to obtain voter approval of a financial measure for the MSD.

Mr. Herb Hardy and Mr. Dean Gisvold (both of Cake, Jaureguy, Hardy, Buttler, & McEwen) have prepared several letters and memorandums dealing with the funding options of the MSD. Three of these letters are attached for your information. The first letter deals with the methods of financing the activities of MSD, the second letter describes in more detail the user charge on certain vehicular items, and the third letter deals with planning funds for MSD. There is also a list of items for possible user charges for your information.

In addition, Mr. Orval Etter has provided some useful information in the area of special assessments. His letter to Kay Rich is enclosed for your information.

Conclusion

In conclusion, the Metropolitan Service District legally has fairly broad funding options that would be worth pursuing in greater depth.

It may also be worthwhile to request the member jurisdictions to contribute a small amount for administrative purposes. Another option would be requesting a part of the State revenue sharing funds.



METROPOLITAN SERVICE DISTRICT

6400 S.W. CANYON COURT PORTLAND, OREGON 97221 (503) 297-3726

July 3, 1973

TO: Metropolitan Service District Board
FROM: MSD Staff
SUBJECT: STAFF REPORT FOR JULY 13, 1973 MSD BOARD MEETING

Presented to the Board herein for transmittal information and recommended action are the following items:

DEFER

1. Hidden Valley Disposal Site Testimony

PUBLIC HEARING

2. Reading and Public Hearing of Testimony for:
 - A. MSD Tire Ordinance
 - B. MSD Tire Processing and Disposal Regulation

PRESENTATION

3. Tire Processing Financing and Legislation by Bartle-Wells Associates

ACTION REQUIRED

4. Emergency Ordinance Adopting MSD Budget Document FY 1973-74

PRESENTATION

5. Solid Waste Existing Systems by COR-MET
6. Public Information Exchange Program by Denny-Wagoner-Wright

REVIEW

7. Multi-Jurisdictional Drainage Report
8. Procedures for Adopting Ordinances

1. HIDDEN VALLEY DISPOSAL SITE TESTIMONY

As you may remember at the last MSD Board meeting during review of the consultants' Interim Report regarding Hidden Valley Disposal Site, a representative from the site owners requested a delay of one month in hearing testimony. During the past month the MSD staff has received (Appendix I) from Ronald Watson, representing Hidden Valley Disposal Site, a request to set aside testimony on this subject for another month. For the record, the subject report has been transmitted to DEQ as accepted by the MSD Board. It is the staff's opinion that the MSD should hear Hidden Valley Site testimony in August.

2. READING AND PUBLIC HEARING OF TESTIMONY FOR THE MSD TIRE AND PROCESSING ORDINANCES

This meeting will hear testimony relating to the:

- . MSD Tire Ordinance
- . MSD Tire Processing and Disposal Regulations

A formal reading of these ordinances will be performed prior to public testimony. Approximately 185 copies of the ordinances were mailed to interested groups. There is some opposition expected from the Tire Association group with support expected from the tire haulers and certain disposal site operators. No action will be required concerning this issue at the Board meeting.

3. TIRE PROCESSING FINANCIAL AND LEGISLATION RECOMMENDATIONS

The MSD staff has requested that Bartle-Wells Associates review and recommend procedures and schedules that would lead to adoption and administration of a tire processing

permit system. This discussion should lead to suggestions and recommendations concerning the steps MSD should take that will lead to implementing a tire processing program. In addition, discussions of potential funding sources will be presented.

4. FISCAL YEAR 1973-74 MSD BUDGET ORDINANCE

Action Required

The Tax Supervising and Conservation Commission in Multnomah County has requested that a certified copy of an ordinance adopting the budget be sent to the Commission per ORS 294.435. As a procedural matter MSD staff requests the MSD Board pass the emergency ordinance shown in Appendix II. The MSD Board has previously passed the MSD Budget document for FY 1973-74 at the April 27, 1973 meeting.

5. SOLID WASTE EXISTING SYSTEMS PRESENTATION

Action Suggested

The MSD Engineering Consultants COR-MET as a result of their work have prepared for your review a report on the existing solid waste systems. Some suggestions and recommendations are also included. The report is attached to your mailing packet. The MSD staff recommends the report be accepted and transmitted to DEQ.

6. PUBLIC INFORMATION EXCHANGE PROGRAM PRESENTATION

Possible Action Required

The Public Relations firm of Denny-Wagoner-Wright will present the Public Information Exchange Program proposed for the MSD Solid Waste Study. If the Board determines the \$14,100 expenditure for a tabloid summary newspaper is

appropriate, a motion authorizing the Chairman to sign necessary documents for a contract change must be passed. Simply, this will revise the distribution of funds allocated under Task 1 of the Work Scope.

7. MULTI-JURISDICTIONAL DRAINAGE REPORT

Attached to your mailing packet is a drainage report prepared by MSD staff for your review. No action is necessary.

8. PROCEDURES FOR ADOPTING ORDINANCES

Appendix III of this report discusses the procedure that MSD staff is utilizing in handling MSD ordinances. This procedure is defined by ORS 198. In addition, Figure 1 is a schedule of MSD Board Action items expected in future months. No action by the Board is required on this item.

Ronald A. Watson

JACKSON TOWER, 806 S.W. BROADWAY
PORTLAND, OREGON 97205
TELEPHONE (503) 228-8531

June 27, 1973

Metropolitan Service District
6400 S.W. Canyon Court
Portland, Oregon 97221

Attention Mr. Charles C. Kemper
MSD Program Coordinator

Re: My Client - Land Reclamation Inc.
Subject - Hidden Valley Landfill
MSD Meeting - July 13, 1973

Dear Mr. Kemper:

At your June meeting I appeared on behalf of Land Reclamation Inc. regarding the reports filed by Cor-Met on Hidden Valley Landfill inasmuch as my principal clients were out of the city. At that meeting they said they would give my clients an opportunity to file a written report in response to the report of Cor-Met.

My clients have just returned to the city a few days ago and I have been unable to meet with them and I will be going on vacation myself next week with the result that I will be unable to meet with them and prepare the information for writing for your next scheduled meeting, which I understand is on Friday, July 13. Therefore, it is requested that the matter of the Hidden Valley Landfill report be set over until your August meeting of August 10, 1973.

In the meantime I will bring to my clients' attention items 1 through 5 listed on page 1-8 of the Cor-Met study and request them to commence work on the matters in conjunction with DEQ.

Very truly yours,


Ronald A. Watson

RAW:jer
cc Land Reclamation Inc.

RECEIVED
JUN 28 1973

COLUMBIA REGION ASS'N.
OF GOVERNMENTS

A P P E N D I X II

ORDINANCE NO. _____

An Ordinance adopting the annual budget of the Metropolitan Service District for the fiscal year beginning July 1, 1973, making appropriations from the funds of the District in accordance with said annual budget, authorizing the drawing of warrants, limiting expenditures for salaries and wages to the positions listed in the detailed approved budget, and declaring an emergency so that the budget may be adopted for the fiscal year beginning July 1, 1973, and so that the fiscal obligations of the District may be met.

THE METROPOLITAN SERVICE DISTRICT ORDAINS:

Section 1. The Council finds that the Multnomah County Tax Supervising and Conservation Commission held its public hearing May 30, 1973, on the annual budget of the Metropolitan Service District for the fiscal year beginning July 1, 1973, and ending June 30, 1974 as filed with said Commission on May 3, 1973; that the Metropolitan Service District has been informed by said Commission that it has voted to certify the budget of the Metropolitan Service District with no objections or recommendations; and that the budget should now be adopted so that there will be no further delay in establishing the budget authority for conducting the business of the District; now, therefore, the 1973-74 budget of the Metropolitan Service District as presented at the hearing of the Multnomah County Tax Supervising and Conservation Commission on May 30, 1973, is hereby adopted.

Section 2. To authorize expenditures in accordance with the annual budget adopted by Section 1 of this ordinance, amounts

Ordinance No. ____ (continued)

Page 2 of 2

are hereby appropriated for the fiscal year beginning July 1, 1973 from the funds and for the purposes listed in the attached budget document.

Lloyd E. Anderson, Chairman
Metropolitan Service District

Robert Schumacher, Vice Chairman
Metropolitan Service District



METROPOLITAN SERVICE DISTRICT

6400 S.W. CANYON COURT PORTLAND, OREGON 97221 (503) 297-3726

A P P E N D I X I I I

June 20, 1973

TO: MSD Board

FROM: MSD Staff

SUBJECT: Procedures for adopting ordinances

As the MSD Board considers the adoption of the tire processing and disposal ordinances, it has come to our attention that the Board must follow the statutory procedural requirements for adopting ordinances outlined in ORS 198.510 - 198.600. A review of this statute indicated the following procedural requirements must be met:

Procedures to Adopt an Ordinance.

STEPS TO ADOPT ORDINANCE:

1. Ordinance must be included in a published agenda. The agenda must appear in a paper of general circulation (The Daily Journal of Commerce, for example) no more than ten days nor less than four days before a district meeting. The agenda must set forth:
 - a. the time, date, and place of the meeting;
 - b. a brief description of the ordinances to be considered; and
 - c. a statement that copies of any ordinance are available at the office of the district board.
2. The agenda may also:
 - a. be posted in three public places within the district at least ten days before the meeting; or
 - b. be published by radio and television stations broadcasting in the district.
3. Ordinance must be read during two regular meetings of the district board. The ordinance must be read in full unless at the meeting:
 - a. a copy of the ordinance be available for each person who desires a copy; and
 - b. the board directs that the reading be by title only.
4. Except in the case of emergency ordinances, affirmative vote of the majority of the district board members is required to adopt an ordinance.
5. Emergency ordinance: An ordinance to meet an emergency may be introduced, read once and put on its final passage at a regular or special board meeting, without being described in a published agenda, if the reasons requiring immediate action are described in the ordinance.

The unanimous approval of all members of the board at the meeting, a quorum being present, is required to adopt an emergency ordinance.

An emergency ordinance may take effect upon adoption (198.570 (2)).

6. Within seven (7) days after adoption of an ordinance, the enrolled ordinance shall be:
 - a. signed by the presiding chairman;
 - b. initialed by the secretary;
 - c. filed in the records of the district.
7. A certified copy of each ordinance must be filed with the (Multnomah) County Clerk, available for public inspection.
8. Within fifteen (15) days after adoption of an emergency ordinance, notice of the adoption of the ordinance shall be published in one or more newspapers of general circulation within the district. The notice shall:
 - a. briefly describe the ordinance;
 - b. state the date when the ordinance was adopted and the effective date of the ordinance; and
 - c. state that a copy is on file at the district office and at the office of the (Multnomah) County Clerk, available for public inspection.
9. Except for emergency ordinances, an ordinance shall take effect 30 days after adoption, unless a later date is prescribed by the ordinance

OTHER FACTORS

10. An ordinance may be referred to the voters of a district prior to its taking effect. (follow 198.580)
11. Any interested person who is a voter or landowner within the district may petition the district board to adopt, amend, or repeal an ordinance. Any such person may appear at any regular meeting of the board and shall be given a reasonable opportunity to be heard.

bg