

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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APR 29 2003

STATE OF ILLINOIS  
Pollution Control Board

SOLID WASTE AGENCY OF NORTHERN  
COOK COUNTY,

Petitioner,

vs.

CITY OF DES PLAINES, ILLINOIS and  
DISPOSAL MANAGEMENT SYSTEMS, INC

Respondents.

No. PCB

03-210

(Pollution Control Facility  
Siting Facility)

**PETITION FOR HEARING**  
**TO CONTEST SITE LOCATION APPROVAL**

Petitioner Solid Waste Agency of Northern Cook County ("SWANCC") by Mayer, Brown, Rowe & Maw, its attorneys, respectfully requests a hearing to contest the decision of the City of Des Plaines, Illinois ("City") approving the siting of the proposed Disposal Management Systems, Inc. ("DMS") Transfer Facility ("DMS Facility"). In support of this Petition, SWANCC states as follows:

1. This Petition is filed pursuant to Section 40.1(b) of the Illinois Environmental Protection Act (the "Act") (415 ILCS 5/40.1).
2. DMS submitted a request for site location approval to the City of Des Plaines dated August 5, 2002. The DMS request proposes to locate a waste transfer station on what is described as a 200 ft by 200 ft facility site at 101-103 Sell Road in the City of Des Plaines, Illinois which is currently owned and operated by DMS as a construction and demolition debris recycling center. The existing recycling center was not required to obtain a permit issued by the Illinois Environmental Protection Agency because it handles only wastes which are at least 75% recyclable. DMS applied for pollution control facility siting approval under Section 39.2 of the

Act, but did not state the amount of waste anticipated to be handled or recycled by the proposed transfer station on a daily or annual basis.

3. On December 2, 2002, following service and publication of notice, a seven minute hearing was conducted on the DMS siting application by the City of Des Plaines City Council. No other public hearing was held on the DMS transfer station siting application.

4. SWANCC was the sole public participant in the December 2, 2002 hearing. As is reflected in the minutes of the December 2, 2002 City Council meeting, SWANCC's Executive Director Brooke Beal presented testimony on behalf of SWANCC at the December 2, 2002 hearing. Mr. Beal also filed written comments on behalf of SWANCC during the subsequent public comment period. A true and correct copy of the minutes of the December 2, 2002 City Council meeting is attached hereto as Exhibit 1. A true and correct copy of the written comments filed by SWANCC on December 31, 2002 is attached hereto as Exhibit 2.

5. On February 18, 2003, the City of Des Plaines City Council, by roll call vote and without issuing an "official written decision," approved the siting of the DMS Facility, without conditions, as is reflected in the attached minutes of the City Council meeting. A true and correct copy of the February 18, 2003 City Council Meeting Minutes approving the siting of the DMS Facility is attached hereto as Exhibit 3.

6. On March 26, 2003, the City issued its "official written decision" along with a signed Illinois EPA Certification Form (LPC-P8), a true and correct copy of which is attached hereto. (Exhibit 4.)

7. Section 107.204 of the Board's procedural rules governing siting appeals states:

"A petition for review must be filed within 35 days after the local siting authority's action to approve or disapprove siting. *Action means the local*

*government's official written decision granting or denying local siting approval pursuant to Section 39.2(e) of the Act ...."* [emphasis added]<sup>1</sup>

8. SWANCC's petition in this matter is timely filed within 35 days following the issuance of the City's March 26, 2003 "official written decision."<sup>2</sup>

9. SWANCC is an Illinois not-for-profit unit of local government which was formed in 1988 under the Illinois Intergovernmental Cooperation Act. Its membership includes 23 Cook County municipalities. SWANCC participated in the public hearing conducted by the City of

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<sup>1</sup> The Section 104.204 requirement that the period for filing a petition commences on the date of the "official written decision" is consistent with Section 39.2 (e) which requires that a the local siting bodies decisions "are to be in writing, specifying the reasons for the decision, such reasons to be in conformance with subsection (a) of this Section." The requirement for a written decision before a decision becomes reviewable is also consistent with well established case law. See WMI v. IPCB, 145 Ill. 2d 345, 585 NE2d 606 (Ill. S. Ct. 1992)(While "final action" for purposes of meeting a deadline for administration action could occur without written findings, "we do not necessarily conclude that [such action] was final and appealable for purposes of review."); Reinhardt v. Board of Education of Alton, 61 Ill. 2d 101, 329 NE2d 219 (Ill. S.Ct. 1965) ( A decision by an administrative agency must contain findings to make possible a judicial review of the agency's findings.)

<sup>2</sup> That the March 26, 2003 letter constitutes not only the "official written decision," but also the City's only written decision in this matter can be discerned from the several facts. First, in March 2003 SWANCC filed a Freedom of Information Act (FOIA) request with the City requesting the City's "final written decision." The City responded with a March 21, 2003 memorandum which provided the minutes of the February 18, 2003 City Council Meeting, the Certification of Siting Approval (LPC-PA8), and stated: "A letter will be sent to Disposal Management Systems, Inc. the week of March 24, 2003, along with the Certification, describing the conditions of approval. A copy will be sent to SWANCC." A true and correct copy of a March 21, 2003 memorandum is attached hereto as Exhibit 5. No other documents were provided in response to SWANCC's request for the City's "final written decision." See Affidavit attached hereto as Exhibit 6. Furthermore, the March 26, 2003 letter is the only City document which states the five conditions upon which the City's approval is stated to be contingent. Also, apparently the LPC-PA8 form accompanying the March 26, 2003 letter, was redone for the "official written decision." It is dated March 25, 2003.

Des Plaines on December 2, 2002, and therefore has standing to contest this siting approval pursuant to Section 40.1 (b) of the Act.

10. SWANCC contests and objects to the City of Des Plaines' decision to approve the siting of the DMS Facility because the siting process and procedures used by the City of Des Plaines in reaching that decision were fundamentally unfair.

11. SWANCC further contests the City of Des Plaines' siting approval because it is wholly unsupported by the record and is against the manifest weight of the evidence.

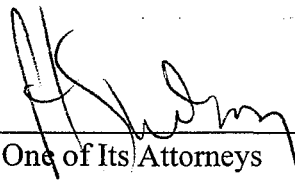
12. SWANCC further contests the City of Des Plaines siting approval because its siting procedures failed to produce a sufficient record for review and otherwise failed to meet the requirements of the Act.

WHEREFORE, SWANCC respectfully requests that the Board enter an order (a) setting for hearing this contest of the City of Des Plaines' siting approval decision, (b) reversing the City of Des Plaines' siting approval decision, and (c) providing such other and further relief as the Board deems appropriate.

Dated: April 29, 2003

Respectfully submitted,

SOLID WASTE AGENCY OF NORTHERN  
COOK COUNTY

By:  \_\_\_\_\_  
One of Its Attorneys

Patricia F. Sharkey  
Mayer, Brown, Rowe & Maw  
190 South LaSalle Street  
Chicago, IL 60603  
312-782-0600  
Attorney Registration No. 6181113  
Firm No.: 38918

MINUTES OF THE REGULAR MEETING OF THE CITY  
COUNCIL OF THE CITY OF DES PLAINES, ILLINOIS  
HELD IN THE ELEANOR ROHRBACH MEMORIAL  
COUNCIL CHAMBERS, DES PLAINES CIVIC CENTER,  
MONDAY, DECEMBER 2, 2002

CALL TO ORDER: The regular meeting of the City Council of the City of Des Plaines, Illinois, was called to order by Mayor Anthony W. Arredia at 7:00 p.m. in the Eleanor Rohrbach Memorial Council Chambers, Des Plaines Civic Center on Monday, December 2, 2002.

ROLL CALL: Roll call indicated the following aldermen present: Beauvais, Christiansen, Murphy, Sayad, Brookman, Becker, Smith, Argus.

Also present were: City Manager Miller, Assistant City Manager-EDC Director Schneider, Director of Finance Egeberg, Police Chief Ryan, Fire Chief Farinella, Director of Engineering Oakley, Director of Public Works Dusckett, Director of Human Resources & Services Merriman, Assistant Director of Human Resources & Services Bajor, Director of Emergency Communications Ornberg, Assistant City Attorney Bartel and City Attorney Wiltse.

PRAYER AND PLEDGE: The opening prayer was given by City Clerk McAllister, followed by the Pledge of Allegiance.

RECOGNITION: Mayor Arredia and Alderman Sayad recognized those students and teachers who participated in the recent Muscular Dystrophy Walk-A-Thon to raise money for their summer camp; a representative from the Muscular Dystrophy Association accepted a check in the amount of \$950 from the students and in return presented them with a plaque of appreciation.

PUBLIC  
HEARING/  
TRANSFER  
STATION/101-  
103 SELL RD.:

MINUTES OF THE PUBLIC HEARING HELD IN THE  
ELEANOR ROHRBACH MEMORIAL COUNCIL CHAMBERS,  
DES PLAINES CIVIC CENTER, MONDAY, DECEMBER 2,  
2002

CALL TO  
ORDER:

Mayor Arredia called the Public Hearing to order at 7:12 p.m. The Public Hearing was being held pursuant to legal notice to obtain public comment on the application by Disposal Management Systems, Inc., For a Transfer Station Permit for a facility to be located at 101-103 Sell Road.

DISCUSSION:

Director of Economic Development Schneider reviewed request from Disposal Management Systems, Inc. for a new permit from the State of Illinois that would allow them to operate as a Transfer Station rather than a recycling facility; by operating as a transfer station, the company could accept loads of materials containing less than 75% of materials that can be recycled; currently the company must send all loads they receive that contain less than 75% recyclable material directly to the landfill.

Mr. C. Brooke Beal, Executive Director, Solid Waste Agency of Northern Cook County, 1616 E. Golf Road, Des Plaines, addressed the City Council stating their opposition to this request; they have not demonstrated a need; there are other places that could accept this material.

Petitioner Rick Anderson, Disposal Management Systems, Inc., addressed the City Council stating that this facility serves a great need for the surrounding area; they recycle construction debris; very few facilities do that; this facility is located and operated in a manner

EXHIBIT

## PAGE TWO

PUB. HEARING  
(Cont'd.)

that will protect the public's health, safety and welfare.

Mayor Arredia asked for public comment. There was none.

The Public Hearing was adjourned at 7:19 p.m.

The City Council reconvened at 7:20 p.m.

PUBLIC  
HEARING/  
2002 TAX  
LEVY:

MINUTES OF THE PUBLIC HEARING HELD IN THE  
ELEANOR ROHRBACH MEMORIAL COUNCIL CHAMBERS,  
DES PLAINES CIVIC CENTER, MONDAY, DECEMBER 2,  
2002

CALL TO  
ORDER:

Mayor Arredia called the Pubic Hearing to order at 7:21 p.m. The Public Hearing was being held pursuant to legal notice to discuss the proposed property tax levy increase for the City of Des Plaines for 2002 tax year levy, in the amount of \$18,786,274, which represents a 15.3% increase over the previous year.

DISCUSSION:

Director of Finance Egeberg stated that the amount of the tax levy can be adjusted when this matter is discussed on December 3, 2002.

Mayor Arredia asked for public comment.

Mr. Vince Powers, 862 Webster Lane, addressed the City Council questioning why this matter is on the Consent Agenda; this is misleading to the residents; they think it is a done-deal.

Further action on this matter under Consent Agenda, Items 4 and 4a.

The Pubic Hearing was adjourned at 7:39 p.m.

The City Council reconvened at 7:40 p.m.

CITIZEN  
PARTICIPATION:

Mr. Gary Danfield, 655 River Road, addressed the City Council stating his concern about the condition of Pearson Street; we need to have that street finished before the snow starts; it is very dangerous.

Mrs. Cathy Stashak, 1753 Whitcomb Avenue, addressed the City Council stating she is a retired 20-year firefighter with the City of Des Plaines; she is opposed to the proposed elimination of the Fire Prevention Bureau; it is a highly skilled group which acts as a front-line defense for the firefighters.

ORDINANCE  
M-44-02  
TELECOMMUN.  
TAX:

Moved by Sayad, seconded by Murphy, to POSTPONE until December 3, 2002, discussion on the First Reading of Ordinance M-44-02, AN ORDINANCE REPEALING TITLE V, "BUSINESS REGULATIONS" CHAPTER 53, "TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE" IN ITS ENTIRETY, AND REPLACING IT WITH TITLE V, "BUSINESS REGULATIONS" CHAPTER 53, "TELECOMMUNICATIONS TAX" IN THE CITY OF DES PLAINES CITY CODE, scheduled to be heard under Committee of the Whole later in the meeting. Motion declared carried.

MANCARI AUTO/  
77 RAND RD.:

Moved by Smith, seconded by Sayad, to POSTPONE until January 6, 2003, the matter of the Business Development Agreement and 6(b) Status for Mancari Auto Group, 77 Rand Road, scheduled to be discussed under Committee of the Whole later in the meeting. Motion declared carried.

CONSENT  
AGENDA:

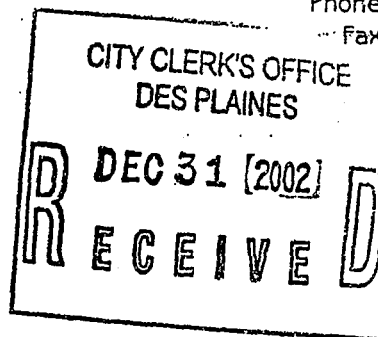
Alderman Sayad requested that Items 4, 4a, 20, 20a, 23 and 23a be removed from the Consent Agenda; Alderman Murphy requested that Items 5, 5a, 6, 6a, 7, 7a, 18, 18a, 19 and 19a; Alderman Brookman requested that Items 21, 21a, 25 and 25a be removed; Alderman Beauvais



# Solid Waste Agency of Northern Cook County

1616 East Golf Road  
Des Plaines, Illinois 60016  
Phone (847) 296-9205  
Fax (847) 296-9207

December 31, 2002



City of Des Plaines  
1420 Miner/Northwest Highway  
Des Plaines, Illinois 60016-4498

Re: Public Comments on the Proposed Transfer Station by Disposal Management Systems

To the City of Des Plaines:

The following comments are submitted in response to the transfer station proposed to be located at 101-103 Sell Road in Des Plaines, Illinois. The facility is proposed by Disposal Management Systems, Inc. ("DMS"), which currently operates a recycling center for construction and demolition debris at the proposed site. SWANCC has reviewed the documents comprising the Application for local siting approval per Section 39.2 of the Illinois Environmental Protection Act (the "Act"), and believes that the applicant has not demonstrated compliance with the nine criteria set forth by the Act. The Application is grossly inadequate and lacks critical information for making any determination regarding the suitability of the site for use as a solid waste transfer station. Therefore, SWANCC strongly recommends that the City of Des Plaines deny this application for local siting approval.

The Solid Waste Agency of Northern Cook County ("SWANCC") is experienced in the operations of solid waste transfer facilities, and is knowledgeable of the process for obtaining local siting approval in Illinois. SWANCC was formed in 1988 to manage the solid waste needs of its 23 member towns. SWANCC developed and adopted a long-term solid waste management plan in 1991, and has since worked to implement a balanced and environmentally safe program of solid waste management. SWANCC owns and administers the operating contract for the Wheeling Township Transfer Station, an 82,000-square foot state-of-the-art facility located in Glenview.

## Evaluation of the Application

DMS is requesting approval to convert its existing construction and demolition ("C&D") debris recycling facility into a solid waste transfer station. The DMS application for local siting approval states that the reason for the proposed conversion is to allow the facility to accommodate loads of C&D debris containing less than 75 percent recyclable materials. For reference, Section 22.38 of the Act requires that facilities accepting exclusively general C&D debris for transfer shall

### Members

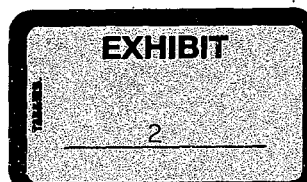
Arlington Heights  
Barrington  
Buffalo Grove  
Elk Grove Village  
Evanston  
Glencoe  
Glenview  
Hoffman Estates  
Inverness  
Kenilworth  
Lincolnwood  
Morton Grove  
Mount Prospect  
Niles  
Palatine  
Park Ridge  
Prospect Heights  
Rolling Meadows  
Skokie  
South Barrington  
Wheeling  
Wilmette  
Winnetka

George Van Dusen  
Chairman,  
Board of Directors

Ronald Wietecha  
Vice Chairman,  
Board of Directors

William R. Balling  
Secretary/Treasurer,  
Board of Directors  
Chairman,  
Executive Committee

C. Brooke Beal  
Executive Director







Solid  
Waste  
Agency  
of  
Northern  
Cook  
County

limit the percentage of incoming non-recyclable general C&D debris to 25 percent or less of the total incoming general C&D debris, as calculated on a daily basis. Solid waste transfer stations are not subject to this limit. DMS claims that the change in status from a C&D transfer/recycling facility to a solid waste transfer facility is the only proposed change to the existing facility, and therefore no modifications to the design or operations of the current facility are warranted.

The citizens of the City of Des Plaines should be advised that while DMS commits at this time to accept only C&D debris, the facility would conceivably be approved to accept all municipal solid waste (i.e., refuse or garbage), including waste from residential and commercial sources, in the future. Even if the City were to special condition its approval to restrict waste acceptance to solely C&D debris, this condition could be modified in the future without any further public process or consideration of the nine criteria. In addition, the Act provides that siting approval may be transferred to subsequent owners or operators, enabling others to develop the property for uses other than those proposed by DMS. Section 39.2 (e-5) of the Act states:

Siting approval obtained pursuant to this Section is transferrable and may be transferred to a subsequent owner or operator. In the event that siting approval has been transferred to a subsequent owner or operator, that subsequent owner or operator assumes and takes subject to any and all conditions imposed upon the prior owner or operator by the county board of the county or governing body of the municipality pursuant to subsection (e). *However, any such conditions imposed pursuant to this Section may be modified by agreement between subsequent owner or operator and the appropriate county board or governing body.* Further, in the event that siting approval obtained pursuant to this Section has been transferred to a subsequent owner or operator, that subsequent owner or operator assumes all rights and obligations and takes the facility subject to any and all terms and conditions of any existing host agreement between the prior owner or operator and the appropriate county board or governing body. (emphasis added)

For these reasons, the fullest level of compliance with the criteria set forth by the Act should be expected of any applicant requesting approval for a pollution control facility. As is discussed below, the Applicant has failed to provide even minimal documentation of compliance with statutory criteria of Section 39.2. Approval of DMS' application would lower the bar not only on the current application, but on any future applications as well.

### Compliance with Section 39.2 of the Act

All new pollution control facilities (including transfer stations) proposed to be located in Illinois are subject to the requirements for local siting approval established by Section 39.2 of the Act. Nine criteria are set forth by Section 39.2 (a), which are the exclusive factors which the City of Des Plaines may consider in determining whether to grant siting approval. Section 39.2 (a) requires applicants for local siting approval to submit sufficient details describing the proposed facility to demonstrate compliance with the nine criteria, and stipulates that local siting approval shall be granted only if the proposed facility meets the criteria.

The application submitted by DMS consists solely of the following documents: a four-page narrative description of the facility; a partially completed copy of IEPA form LPC-PA8 (Certification of Siting Approval); and a plat of survey and topography. No expert witness testimony was presented at the public hearing on December 2, 2002 to further describe the design and operation of the proposed facility. Indeed, the only testimony presented was by SWANCC and, on rebuttal, by an owner of DMS, in which the owner agreed with the comments of SWANCC. This record clearly does not demonstrate compliance with the nine criteria of Section 39.2.

#### *Criterion 1 - The facility is necessary to accommodate the waste needs of the area it is intended to serve.*

As an initial matter, DMS has not identified a service area for the proposed facility, beyond stating that "this facility serves a great need for the surrounding area". No documentary evidence was presented in the record to indicate whether "surrounding area" means two feet, two miles or 20 miles. Because the service area is not defined, the City has no basis to evaluate compliance with Criterion 1.

Furthermore, DMS has not demonstrated that the facility is necessary to accommodate the waste needs of the intended service area. DMS justifies the need for the facility solely on the following observations:

- Recycling C&D debris will save landfill space;
- Operating the facility will improve the quality of life of citizens in the area;
- Recycling C&D debris will eliminate the need for construction contractors to travel to Elgin to obtain gravel; and,
- There are very few facilities that recycle C&D debris.



DMS has not presented any evidence, however, to support these observations. For instance, DMS does not present a list of aggregate producers to demonstrate that the only alternative source of gravel (aside from its proposed outlet for recovered concrete in Elk Grove Village) is located in Elgin.

Moreover, DMS argues that there are few other facilities that are capable of providing C&D recycling service. SWANCC is aware of a number of facilities in the area that provide this service, including:

- Groot Recycling and Disposal (transfer station located about 1/4 mile southwest of the proposed facility)
- American Wood (C&D processing facility located in Hoffman Estates)
- Vulcan Materials (located in Elk Grove Village)
- Orange Crush (located in Chicago about 1/2 mile southwest of the proposed facility, as well as locations in Skokie and Wheeling)
- DuPage Materials (located in Elmhurst)
- Crush Crete (located in Addison)

Finally, DMS has not demonstrated that its objectives cannot be met under their existing permit for the recycling facility. DMS appears to believe that *each load* which enters their facility must contain 75 percent or more recyclable materials. This is not true. The requirement under Section 22.38 (b.2) of the Act is that the facility shall "limit the percentage of incoming non-recyclable general construction or demolition debris to 25% or less of the total incoming general construction or demolition debris, as calculated on a *daily basis*." DMS presents no data on the projected amount of material to be handled, and therefore has not demonstrated a need that it cannot meet its recycling objectives through its existing permit.

***Criterion 2 - The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.***

DMS has not demonstrated that the facility is designed, located and proposed to be operated in a manner which will protect the public health, safety and welfare. The application merely states that the recycling facility has been operating for two years while being inspected by the IEPA, and since no changes are proposed, the criterion has been met. Clearly, however, a significant change is being proposed -- since the modified facility would accept loads with less than 75 percent recyclables, the average daily quantity of waste handled at the facility would increase. No evidence is provided, however, to indicate the magnitude of the increase and whether the facility is capable of handling increased volumes.



The only drawing provided in the application is an undated plat of survey with handwritten notes, which is barely legible and contains no graphic scale. In order to adequately demonstrate compliance with this criterion, substantial additional information would be required regarding the facility's location, design, and plan of operations as described below.

#### Location

A detailed description of the facility location is needed, including maps and/or figures. The nature and use of surrounding properties should be identified. In addition, the location or presence of the following features at or near the site need to be investigated and clearly identified:

- Nearest residentially zoned property and its distance to the subject site to demonstrate compliance with Section 22.14 of the Act. Section 22.14 requires that within counties of at least 3,000,000 inhabitants no person may establish a transfer station within 1,000 feet of the nearest property zoned for primarily residential uses. If the facility is located within 10 contiguous acres of property utilized primarily for industrial uses, the facility may be located within 1,000 feet, but no closer than 800 feet from the nearest property zoned primarily for residential uses.;
- 100-year flood plain (refer to discussion under Criterion 4);
- Jurisdictional waters or wetlands, to confirm compliance with Section 404 of the Clean Water Act;
- Historic, architectural or archaeological resources,
- Threatened or endangered species;

#### Design

A detailed description of the design of the facility is necessary to evaluate if the public health, safety, and welfare will be protected. Detailed plans should be provided, prepared to scale and in CAD or equivalent quality, showing the existing site conditions, proposed site conditions, traffic movements, and building floor plans. In addition, a description of the location, size, and design of the following transfer station features should be provided:

- Entrance, access roads, and interior circulation drives;
- Scale and scale house;
- Transfer station building;
- Waste tipping floor;
- Waste sorting and/or processing areas;
- Waste or recyclables storage areas;





- Waste loading bays;
- Vehicle queuing lanes;
- Security features such as fencing and gates;
- Employee and visitor parking areas;
- Utilities;
- Stormwater management structures;
- Fire control systems;
- Lighting;
- Signage; and,
- Landscaping.

In addition, DMS notes in their response to Criterion 5 that a containment dike exists around the waste sorting operation. The nature of this dike needs to be more thoroughly described, including location, size, purpose, and method of treatment and/or discharge.

#### Operations

A plan of operations for the transfer station facility should be provided, which includes information on the following:

- Waste types;
- Waste quantity projections;
- Methods for transferring waste;
- Demonstration that facility can accommodate projected waste quantity without causing backups onto exterior roadways or unsafe site conditions;
- Equipment needs;
- Personnel needs;
- Hours of operation;
- Cleaning procedures;
- Methods to control nuisances such as dust, noise, odors, litter, and vectors;
- Communication system;
- Record keeping system; and,
- Vehicle fueling procedures.

DMS intends to accept loads with a lower recyclables content -- i.e., a higher content of non-recyclable solid waste. DMS does not indicate how long the increased volume of non-recyclable solid waste materials will remain on-site prior to transport to a disposal facility. Moreover, DMS does not indicate the types and amounts of waste that will be stored at the facility or the duration that they will be stored,

beyond stating "because of the small size of this facility, we cannot and do not store large amounts of any one material for long period of time." As was noted before, the volume of material handled at the site will likely increase, because incremental loads with less than 75 percent recyclables will be handled. Although DMS has acknowledged that it is a small facility, it has not demonstrated that its "small" facility can safely accommodate additional waste volumes.

*Criterion 3 - The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property.*

DMS has not demonstrated that the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. Additional documentation (drawings, maps, and photographs) is warranted to fully characterize the land-uses in the surrounding area. A zoning map should be provided for the areas within a half-mile to mile radius of the site. In addition, any site features such as fencing and landscaping that may serve to screen operations from adjacent properties should be designed and/or identified.

*Criterion 4 - The facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed.*

DMS has not demonstrated that the facility is located outside the boundary of the 100 year flood plain or that the site is flood-proofed. The application merely states that the facility is not located within the flood plain, without any supporting documentation. The appropriate panel of the Cook County Flood Insurance Rate Map (FIRM), published by the Federal Emergency Management Agency (FEMA), should be utilized in conjunction with a site topographic survey to determine the location of the 100 year flood plain. At a minimum, the application should include copies of such maps with the site location identified.

*Criterion 5 - The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.*

DMS has not demonstrated that the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents. In addition to the items identified under Criterion 2 as critical components of the facility's operating plan, the following items should be addressed to demonstrate compliance with this criterion:

- Employee training program;
- Fire control and prevention mechanisms;





- Spill prevention and response plan;
- Loading checking program (to prevent unauthorized materials from being accepted by the facility);
- Site security measures;
- Emergency response procedures; and,
- Operational contingency plans.

***Criterion 6 - The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows.***

DMS has not demonstrated that the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows. The statement by DMS that traffic flows are not expected to change appreciably is not sufficient to demonstrate compliance with this criterion. A traffic study should be prepared by an experienced transportation engineer and include at a minimum the following information:

- Identification of the roadway network to be used to access the proposed transfer station;
- Analysis of the traffic generated by the facility, including number and type of vehicle per each hour of operating day and the direction by which traffic will enter and exit the facility;
- Assessment of the existing roadway network, including traffic volumes, approved or planned developments or roadway improvements, and accident data;
- Evaluation of the impact of the site generated traffic on the existing roadways, including compliance with weight restrictions and the projected level of service and vehicular delay at critical intersections;
- Review of proposed site plan in conjunction with the projected traffic volumes and known turning radii of vehicles utilizing the transfer station. Confirm that the proposed entrance configuration and interior traffic movements will adequately and safely accommodate waste collection and transfer vehicles.

***Criterion 7 - If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release.***

DMS proposes that the facility will not accept or store hazardous waste. However, DMS' conclusion that an emergency response plan is not required is untrue. Such a plan is required (under Criterion 2 or Criterion 5 if not Criterion 7) to address the handling of asbestos materials which may be delivered to the facility, or fuel spills from trucks and operating equipment.



***Criterion 8 - If the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan.***

DMS has not demonstrated that the proposed transfer station facility is consistent with the applicable solid waste management plan. Cook County adopted a Solid Waste Management Plan in 1996, and updated the Plan in 2000. While the application states that recycling is an important goal of the County, DMS has not demonstrated a comprehensive understanding of the Plan. Additional information is warranted to demonstrate compliance with the Plan, including:

- Identification of the key objectives of the Plan, specifically those that relate to solid waste transfer stations and recycling facilities;
- Demonstration that the proposed facility meets each of the objectives identified.

***Criterion 9 - If the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.***

Regulated recharge areas are established by the Illinois Pollution Control Board to protect areas where the groundwater is particularly susceptible to contamination due to local geology. To properly demonstrate compliance with this criterion, DMS should provide evidence from the Illinois Environmental Protection Agency (IEPA) that the facility is not located within a regulated recharge area.

***Other Requirements of Section 39.2 of the Act***

Section 39.2 (b) of the Act requires the Applicant to provide written notice of the request for location approval (via personal service or registered mail) to property owners within 250 feet of the subject property and to members of the General Assembly from the legislative district in which the proposed facility is located. In addition, notice must be published in a newspaper of general circulation in Cook County.

Section 39.2 (d) of the Act requires that notice of the public hearing be provided (via certified mail) to members of the General Assembly from the legislative district in which the proposed facility is located, to the governing authority of every municipality contiguous to the proposed site or contiguous to Des Plaines, to Cook County, and to the IEPA. Notice must also be published in a newspaper of general circulation in Cook County.



The notices are required to be submitted no later than 14 days prior to the filing of the request for siting approval or the date of public hearing, respectively. No evidence has been provided that all of the required notices were issued in compliance with the Act.



### Summary

In summary, DMS has not provided sufficient information to demonstrate compliance with Section 39.2 of the Act. The application is clearly lacking in critical details, making it impossible to properly evaluate it for use as a transfer station facility.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Brooke Beal". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

C. Brooke Beal  
Executive Director

STATE OF ILLINOIS     )  
                                      )  
COUNTY OF COOK        )

CLERK'S CERTIFICATE

I, DONNA McALLISTER, do hereby certify that I am the qualified and acting CITY CLERK\* of the City of Des Plaines, Cook County, Illinois, AND THAT AS SUCH, I am the officer duly designated by law to keep the minutes, ordinances, resolutions and proceedings of the City Council of the City of Des Plaines.

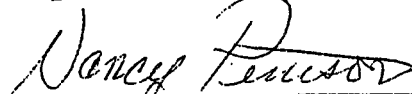
I further certify that the attached and foregoing copy of City Council Meeting Minutes - Feb. 18, 2003 is a true and correct copy of the records of the City of Des Plaines.

IN WITNESS WHEREOF, I hereunto affix my signature and impress hereon the corporate seal of the said City of Des Plaines, Cook County, Illinois, this 24th day of February, 2003.



DONNA McALLISTER, City Clerk  
City of Des Plaines, County of Cook

By:



NANCY PETERSON, Deputy City Clerk  
City of Des Plaines, County of Cook

\*Per the provisions of 65 ILCS 5/3.1-20-5  
of the Illinois Compiled Statutes (1998)

EXHIBIT

3

MINUTES OF THE REGULAR MEETING OF THE CITY  
COUNCIL OF THE CITY OF DES PLAINES, ILLINOIS  
HELD IN THE ELEANOR ROHRBACH MEMORIAL  
COUNCIL CHAMBERS, DES PLAINES CIVIC CENTER,  
TUESDAY, FEBRUARY 18, 2003

CALL TO ORDER: The regular meeting of the City Council of the City of Des Plaines, Illinois, was called to order by Mayor Anthony W. Arredia at 6:15 p.m. in the Eleanor Rohrbach Memorial Council Chambers, Des Plaines Civic Center on Tuesday, February 18, 2003.

ROLL CALL: Roll call indicated the following aldermen present: Murphy, Sayad, Becker, Smith, Argus. Aldermen Beauvais, Christiansen and Brookman were absent. Alderman Christiansen arrived at 6:17 p.m. Alderman Brookman arrived in Executive Session at 6:50 p.m. Alderman Beauvais arrived at 7:41 p.m.

Also present were: Acting City Manager-EDC Director Schneider, Director of Finance Egeberg, Police Chief Ryan, Fire Chief Farinella, Director of Engineering Oakley, Director of Public Works Dusckett, Director of Human Resources & Services Merriman, Assistant Director of Human Resources & Services Bajor, Director of Emergency Communications Ornberg, Keep Des Plaines Beautiful Coordinator Wolski, Assistant City Attorney Bartel and City Attorney Wiltse.

EXECUTIVE SESSION: Moved by Sayad, seconded by Murphy, to go into Executive Session to discuss collective bargaining. Upon roll call, the vote was:  
AYES: 5-Murphy, Sayad, Becker, Smith, Argus  
NAYS: 0-None  
ABSENT: 3-Beauvais, Christiansen, Brookman  
Motion declared carried.

The City Council recessed at 6:16 p.m.

The City Council reconvened at 7:00 p.m.

Roll call indicated the following aldermen present: Christiansen, Murphy, Sayad, Brookman, Becker, Smith, Argus.

PRAYER AND PLEDGE: The opening prayer was given by Pastor Greg Eaton, First United Methodist Church, followed by the Pledge of Allegiance.

PRESENTATION: Mayor Arredia presented the The Year of the Family Award to Al Alderman, who has been an inspiration to not only his children and scout troop, but to his family and the community at large.

Mayor Arredia introduced Rev. William Grice, First Congregational Church, who in turn introduced Debra Wielusiak, the new Community Resource Director for the Self-Help Closet & Pantry of Des Plaines, who urged residents to contribute food and clothing because there is a growing need in Des Plaines.

Alderman Tom Becker introduced Keep Des Plaines Beautiful Coordinator Wolski who presented appreciation awards to businesses who contributed to the Holiday Ceremony at the Library Plaza on December 5, 2003; and to schools who created ornaments and decorated the holiday trees:

Grazie! Ristorante and Banquets  
Optimist Club of Des Plaines  
Sysco Food Service  
U-STOR-IT

Algonquin Middle School	Iroquois Community School
Brentwood Elementary School	North Elementary School
Central Elementary School	Orchard Place Elem. School
Chippewa Middle School	Our Lady of Destiny School
Cumberland Elementary School	Plainfield Elem. School

PRESENTATION  
(Cont'd.)

Devonshire Elementary School	South Elementary School
Forest Elementary School	SPARKS Program (Dis. 62)
Friendship Jr. High School	St.Emily Elem. School
Immanuel Lutheran School	Terrace Elementary School

Mrs. Stacey Magnusson, President of the Optimist Club of Des Plaines, read a letter from the Optimist Club stating that they will donate all seventeen (17) trees for the 2003 holiday season at Library Plaza.

CITIZEN  
PARTICIPATE.

Mr. Michael Mickelsen, Des Plaines Citizens for Responsible Development, P.O. Box 2760, Des Plaines, addressed the City Council stating that his organization has looked into the flooding issue; they have contacted other communities to see what they are doing; permeable pavers are being used to construct parking lots; he has a lot of information that he would be willing to loan to the City; we should require that all large parking lots and driveways be constructed with permeable pavers.

Mr. Bob Suriano, 1258 Wayne Drive, addressed the City Council stating that there is a problem with cars going the wrong way down Graceland Avenue; there should be better signage; when the Police stop cars on Golf Road at River Road, they should pull off into a parking lot rather than block traffic; when cars are involved in accidents, they should be pulled off the road so traffic can go through.

Mr. Gary Danfield, 655 River Road, addressed the City Council stating that the City should not accept gifts from the Optimist Club until they clean up after their Christmas Tree sale; we should look at allowing them to use City property; they don't maintain the property properly.

COLLECTIVE  
BARGAINING/  
POLICE (MAP)  
CHAPTER 282

Resolution  
R-21-03

Ordinance  
M-8-03

Moved by Becker, seconded by Sayad, to concur with majority agreement in Executive Session that City ratify contract with the Metropolitan Alliance of Police (MAP) Chapter #282 (E-911), effective May 1, 2002 through April 30, 2005; and adopt Resolution R-21-03, A RESOLUTION RATIFYING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE COLLECTIVE BARGAINING AGREEMENT WITH THE METROPOLITAN ALLIANCE OF POLICE, DES PLAINES CIVILIAN CHAPTER #282.

Alderman Argus stated that a 5.5% increase in wages plus steps is irresponsible in this bad economy and the state of our budget.

Upon roll call, the vote was:

AYES: 7-Beauvais, Christiansen, Murphy,  
Sayad, Brookman, Becker, Smith

NAYS: 1-Argus

ABSENT: 0-None

Motion declared carried.

Moved by Becker, seconded by Sayad, to place on First Reading Ordinance M-8-03. Motion declared carried. Alderman Argus voted no.

Moved by Becker, seconded by Christiansen, to advance to Second Reading and adopt Ordinance M-8-03, AN ORDINANCE AMENDING SCHEDULE VII "TELECOMMUNICATION OPERATORS GROUP" OF TITLE I, "ADMINISTRATIVE," OF CHAPTER 15, "POSITION CLASSIFICATION AND COMPENSATION PLAN," OF SECTION 4, "CLASSIFICATION PLAN TO THE CITY SERVICE," OF THE DES PLAINES CITY CODE TO REFLECT AMENDMENTS MADE IN THE AGREEMENT EFFECTIVE MAY 1, 2002 THROUGH APRIL 30, 2005.


Upon roll call, the vote was:

AYES: 7-Beauvais, Christiansen, Murphy,  
Sayad, Brookman, Becker, Smith

NAYS: 1-Argus

ABSENT: 0-None

Motion declared carried.



MOTOR FUEL  
TAX INCREASE  
& TELECOMM.  
TAX INCREASE:

Moved by Beauvais, seconded by Brookman, to TABLE the matters of Motor Fuel Tax Increase and Telecommunication Tax Increase, scheduled to be discussed under New Business later in the meeting. Motion declared carried.

MANCARI AUTO  
GROUP/  
77 RAND ROAD:

Moved by Smith, seconded by Becker, to POSTPONE until April 7, 2003, the matter of the Business Development Agreement and the 6(b) status for Mancari Auto Group, 77 Rand Road, scheduled to be discussed under Committee of the Whole later in the meeting. Motion declared carried.

CONSENT  
AGENDA:

Alderman Sayad requested that Item 2 be removed from the Consent Agenda; Alderman Beauvais requested that Items 4 and 4a be removed; and a resident requested that Items 6 and 6a be removed.

Moved by Sayad, seconded by Becker, to establish a Consent Agenda except for Items 2, 4, 4a, 6 and 6a. Motion declared carried.

Moved by Murphy, seconded by Sayad, to approve the Consent Agenda. Upon roll call, the vote was:  
AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried. Minutes were approved; staff recommendations and requests were approved; Ordinances M-4-03, M-5-03, M-6-03, M-7-03, T-1-03 and Z-3-03 be adopted; Ordinances M-9-03 and T-3-03 be placed on First Reading; and Resolutions R-23-03 and R-24-03 be adopted.

MINUTES/  
1/22/03:  
Consent  
Agenda

Moved by Murphy, seconded by Sayad, to approve minutes of the Special meeting of the City Council held January 22, 2003, as published. Motion declared carried as approved unanimously under Consent Agenda.

MINUTES/  
2/3/03:

Moved by Sayad, seconded by Brookman, to POSTPONE until March 3, 2003, under Unfinished Business, approval of minutes of the regular meeting of the City Council held February 3, 2003, as published. Motion declared carried.

DRIVING  
RESTRICTIONS:  
Consent  
Agenda

Ordinance  
M-9-03

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation to amend Title X, Chapter 9 - "Licenses" of the City Code to ADD a NEW Section 9 to make it unlawful to drive without a license or drive on a suspended license; the minimum fine upon conviction or plea of guilty shall be \$50; and further recommend to place on First Reading Ordinance M-9-03, AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF DES PLAINES, TITLE X, "TRAFFIC" CHAPTER 9, "LICENSES" TO ADD A NEW SECTION 9, TITLED "PENALTY FOR DRIVING WITHOUT A LICENSE, OR DRIVING ON A SUSPENDED LICENSE." Motion declared carried as approved unanimously under Consent Agenda.

LIO. LIC./  
1415  
ELLINWOOD:

Ordinance  
M-10-03

Moved by Smith, seconded by Becker, to POSTPONE until March 3, 2003, under Committee of the Whole, discussion on amending Title V, Chapter 34, Section 18 - "License Limitations" of the City Code to ADD one (1) Class B-1 Bulk Sales Dealers Liquor License for property located at 1415 Ellinwood Street, d/b/a Sofia Specialty Food and Liquors; contingent upon verification of fingerprints; and one (1) Class B Liquor License (umbrella classification for all B Liquor Licenses); and placing on First Reading Ordinance M-10-03. Motion declared carried.

TRAFFIC  
RESTRICTION/  
PERRY ST.:  
Consent  
Agenda

Ordinance  
T-3-03

Moved by Murphy, seconded by Sayad, to concur with recommendation of Staff Traffic Advisory Committee to amend Title X, Chapter 7, Section 3 - "Stop Streets" of the City Code to ADD that westbound Perry Street traffic stop at Graceland Avenue; and further recommend to place on First Reading Ordinance T-3-03, AN ORDINANCE AMENDING TITLE X, "TRAFFIC" CHAPTER 7, "THROUGH AND STOP STREETS"

nm

T-3-03  
(Cont'd.)

SECTION 3 "STOP STREETS" TO ADD A NEW STOP AT THE WESTBOUND LANE OF PERRY STREET. Motion declared carried as approved unanimously under Consent Agenda.

TIME EXTEN./  
CONDIT. USE  
& VARIATION,  
2930 RIVER:

Mr. Gary Danfield, 655 River Road, addressed the City Council asking why the City is giving them a six-month extension. Alderman Becker said because of 9/1/01; this is a multi-million dollar project; the hotel industry took a big hit.

Resolution  
R-22-03

Moved by Becker, seconded by Sayad, to concur with Staff recommendation to grant request for extension of time for preparation and submittal of the Conditional Use Permit and Variations (as approved by the City Council on July 16, 2001 - Ordinance Z-12-01 and amended by Ordinance Z-2-02 on April 1, 2002), from April 1, 2003 through and including October 1, 2003; for property located at 2930 S. River Road (Hilton Garden Inn); and further recommend to adopt Resolution R-22-03, A RESOLUTION GRANTING AN EXTENSION OF TIME FOR SUBMITTAL AND APPROVAL OF A CONDITIONAL USE AND ZONING VARIANCES PURSUANT TO SECTIONS 3.4-8 "LIMITATIONS ON CONDITIONAL USE" AND 3.6-12 "LIMITATIONS ON VARIATIONS" OF THE DES PLAINES ZONING ORDINANCE, AND GRANTING AN EXTENSION UNTIL OCTOBER 1, 2003, LOCATED AT 2930 S. RIVER ROAD, DES PLAINES (CASE 01-22-CU-V). Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

ATM MACHINE  
PLACE. AGREE.  
POLICE STA.  
1420 MINER:

Consent  
Agenda

Resolution  
R-23-03

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation that Mayor and City Clerk be authorized to execute "Placement Agreement" with Anderson ATM Systems, 4644 N. Leclare Avenue, Chicago, IL 60630, to place an ATM Machine in the lobby of the Des Plaines Police Station, 1420 Miner Street; City to receive \$1.20 per transaction at said ATM machine; and further recommend to adopt Resolution R-23-03, A RESOLUTION AUTHORIZING A "PLACEMENT AGREEMENT" BETWEEN ANDERSON ATM SYSTEMS AND THE CITY OF DES PLAINES FOR THE PURPOSE OF PLACING AN ATM MACHINE IN THE LOBBY OF THE DES PLAINES POLICE STATION, LOCATED AT THE DES PLAINES CIVIC CENTER, 1420 MINER STREET. Motion declared carried as approved unanimously under Consent Agenda.

LOCKBOX BANK  
ACCT. AGREE./  
OAK BROOK  
BANK:

Consent  
Agenda

Resolution  
R-24-03

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation that City Clerk be authorized to execute "Corporate Authorization Resolution" with Oak Brook Bank, 1400 W. 16<sup>th</sup> Street, Oak Brook, IL 60523, to open a bank account for lockbox service for utility bill and vehicle sticker payments; said resolution reaffirms the authority of the Director of Finance and Assistant Director of Finance to sign checks and make investments for the City; and further recommend to adopt Resolution R-24-03, A RESOLUTION AUTHORIZING THE EXECUTION OF AN OAK BROOK BANK CORPORATE AUTHORIZATION RESOLUTION FOR THE PURPOSE OF OPENING A BANK ACCOUNT AT OAK BROOK BANK. Motion declared carried as approved unanimously under Consent Agenda

LIO. LIC.  
CHANGE OF  
OWNERSHIP/  
699 N. WOLF:

Consent  
Agenda

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation to approve Change of Ownership of Class B-1 Bulk Sales Dealers Liquor License for property located at 699 N. Wolf Road, d/b/a ZJ's Pantry Plus & Liquors; contingent upon verification of fingerprints. Motion declared carried as approved unanimously under Consent Agenda.

DM

PARKING PAD  
VARIATION/  
1660 S. CORA:  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation to grant request for Variation to Section 4-7-9 of the Building Code Amendments to permit construction of a parking pad, 17' wide x 21' long, in the rear yard adjacent to the alley and detached garage on property located at 1660 S. Cora Street (all new parking pads require approval by the Building Code Committee); contingent upon petitioner agreeing not to construct any additional hard surface or structures in the rear yard. Motion declared carried as approved unanimously under Consent Agenda.

BID AWARD/  
AMBULANCE  
STRETCHERS:  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation to award bid for Purchase of Two (2) Ambulance Stretchers to the single bidder, Armstrong Medical Industries, 575 Knightsbridge Parkway, Lincolnshire, IL 60069, in the total bid amount of \$5,904/Budgeted Funds. Motion declared carried as approved unanimously under Consent Agenda.

BID AWARD/  
PRESSURE  
WASHER FOR  
PUBLIC WKS.:  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation to award bid for Purchase of Combination Cold/Hot/Steam Pressure Washer for Public Works Department to the lowest responsible bidder, Standard Industrial & Automotive, 6211 Church Road, Hanover Park, IL 60133, in their alternate bid amount of \$8,935/2003 CERF Fund. Motion declared carried as approved unanimously under Consent Agenda.

ADVERTISING  
FOR BID:  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation that City Clerk be authorized to advertise for bids for 2003 Street Rehabilitation (Contract 1), returnable by 3:00 p.m., Thursday, March 6, 2003. Motion declared carried as approved unanimously under Consent Agenda.

APPOINTMENT:  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to approve Mayoral appointment of Penny C. Wenstrom to the SPECIAL EVENTS COMMISSION, term to expire August 31, 2003. Motion declared carried as approved unanimously under Consent Agenda.

ORDINANCE  
M-4-03  
POLICE RECORD  
SYS. ADMIN.  
(9-1-1):  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to adopt Ordinance M-4-03, AN ORDINANCE AMENDING TITLE I "ADMINISTRATIVE," OF CHAPTER 15 "POSITION CLASSIFICATION AND COMPENSATION PLAN," SECTION 4 "CLASSIFICATION PLAN TO THE CITY SERVICE" FOR SCHEDULE V-A "TECHNICAL, ENGINEERING AND INSPECTION GROUP" IN THE DES PLAINES CITY CODE. Motion declared carried as approved unanimously under Consent Agenda.

ORDINANCE  
M-5-03  
DONATION/  
SURPLUS FIRE  
EQUIPMENT:  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to adopt Ordinance M-5-03, AN ORDINANCE AUTHORIZING THE DONATION AND CONVEYANCE OF PERSONAL PROPERTY OWNED BY THE CITY OF DES PLAINES. Motion declared carried as approved unanimously under Consent Agenda.

ORDINANCE  
M-6-03  
RESCINDING  
ORDINANCE  
M-10-02:  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to adopt Ordinance M-6-03, AN ORDINANCE RESCINDING CITY OF DES PLAINES MUNICIPAL ORDINANCE M-10-02 IN ITS ENTIRETY. Motion declared carried as approved unanimously under Consent Agenda.

ORDINANCE  
M-7-03  
CITY CODE  
REVISIONS:  
 Consent  
 Agenda

Moved by Murphy, seconded by Sayad, to adopt Ordinance M-7-03, AN ORDINANCE AMENDING TITLE I, "ADMINISTRATIVE" CHAPTER 6, "CITY COUNCIL" SECTION 3, "MEETINGS" TO ADDRESS CERTAIN HOUSEKEEPING MATTERS (formerly 1-6-8 and 1-6-9). Motion declared carried as approved unanimously under Consent Agenda.

ORDINANCE  
T-1-03  
PARKING  
RESTRICTION/  
FIFTH AVE.:  
Consent  
Agenda

Moved by Murphy, seconded by Sayad, to adopt Ordinance T-1-03, AN ORDINANCE AMENDING TITLE X, "TRAFFIC," CHAPTER 5, "STOPPING STANDING AND PARKING" SECTION 17, "PARKING PROHIBITED IN DESIGNATED PLACES" OF THE CITY OF DES PLAINES CITY CODE. Motion declared carried as approved unanimously under Consent Agenda.

ORDINANCE  
Z-3-03  
CONDIT. USE/  
1526 MINER:  
Consent  
Agenda

Moved by Murphy, seconded by Sayad, to adopt Ordinance Z-3-03, AN ORDINANCE GRANTING A CONDITIONAL USE TO ALLOW THE OPERATION OF A CLASS B RESTAURANT, LOCATED AT 1526 MINER STREET, DES PLAINES, ILLINOIS, (CASE 03-03-CU). Motion declared carried as approved unanimously under Consent Agenda.

ORDINANCE  
T-3-03  
TRAFFIC  
RESTRICTION/  
PERRY ST.:

Moved by Beauvais, seconded by Christiansen, to advance to Second Reading and adopt Ordinance T-3-03, AN ORDINANCE AMENDING TITLE X, "TRAFFIC" CHAPTER 7, "THROUGH AND STOP STREETS" SECTION 3 "STOP STREETS" TO ADD A NEW STOP AT THE WESTBOUND LANE OF PERRY STREET. Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

ORDINANCE  
M-9-03  
DRIVING  
RESTRICTIONS:

Moved by Sayad, seconded by Becker, to adopt Ordinance M-9-03, AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF DES PLAINES, TITLE X, "TRAFFIC" CHAPTER 9, "LICENSES" TO ADD A NEW SECTION 9, TITLED "PENALTY FOR DRIVING WITHOUT A LICENSE, OR DRIVING ON A SUSPENDED LICENSE." Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

MAYOR ARREDIA DECLARED THAT THE CITY COUNCIL WAS NOW  
RESOLVED INTO A COMMITTEE OF THE WHOLE

FINANCE & ADMINISTRATION - Alderman Sayad, Chair

HEALTH  
INSURANCE  
PREMIUMS/  
RETIRED CITY  
EMPLOYEES:

City Attorney Wiltse reviewed the status of the meetings that have been held with the Staff and retirees regarding health insurance premiums for retired City employees; the matter had been postponed on 11/4/02, 11/18/02, 12/16/02 and 1/20/03; the City acknowledges that 37 retirees were overcharged in the total amount of \$19,704.89; these credits will be off-set against monies owed by the retirees for the currently-due premiums.

Both Alderman Argus and Murphy stated that maybe the City should look for a supplemental plan for Medicare for the retirees; Blue Cross/Blue Shield should explain their plan; it doesn't make sense.

Director of Finance Egeberg stated that a supplemental plan for Medicare for the retirees would cost the City approximately \$2 million.

Alderman Sayad stated that some research needs to be done on this matter.

Mrs. Linda Laffey, 1888 Fargo Avenue, vice president of the Retired Employees Association, addressed the Committee of the Whole stating that they have been working on this for over one (1) year; she thanked the City for correcting the rate error, but their issue is with the Medicare cost; they are asking for a fair rate.



HEALTH INS.  
(Cont'd.)

Alderman Sayad stated that the Staff will get the answers to the aldermen's and retirees' questions; Staff will have a representative of Blue Cross/Blue Shield explain their plan; investigate a supplement plan for Medicare; and report back to the Committee of the Whole.

WARRANT  
REGISTER:

Moved by Beauvais, seconded by Argus, to recommend to the City Council approval of the February 18, 2003 - Warrant Register, in the total amount of \$2,710,822.28; and further recommend that Resolution R-25-03 be adopted at appropriate time this evening. Motion declared carried.

PUBLIC SAFETY - Alderman Beauvais, Chair

PROPOSED  
AMENDMENTS/  
BOARD OF FIRE  
& POLICE  
COMMISSIONERS  
RULES & REGS:

Mr. Randy Johnson, Chairman of the Board of Fire and Police Commissioners, addressed the Committee of the Whole regarding the proposed changes to the Fire & Police Commission Rules regarding promotional testing, which had been referred back to the Public Safety Committee and Board of Fire & Police Commissioners on February 3, 2003.

Mr. Johnson stated that the Commissioners are still of the belief that 70% of the highest achievable score is the better way to go, but they have agreed that if the City Council wishes to instead select Option B and have a minimum passing of 70%, they would concur with that.

Alderman Sayad stated that he agrees with Option B.

Mr. Colin Carroll, President of the Des Plaines Professional Firefighters Association, addressed the Committee of the Whole stating that his organization supports these proposed changes.

Moved by Sayad, seconded by Becker, to recommend to the City Council to approve Option B of the proposed changes to the Revised Rules and Regulations of the Board of Fire & Police Commissioners, and Ordinance M-12-03 be placed on First Reading at appropriate time this evening. Motion declared carried.

PUBLIC WORKS - Alderman Brookman, Chair

✓ TRANSFER  
STATION  
PERMIT/  
101-103 SELL:

Alderman Brookman reviewed the request from Disposal Management Systems, 101-103 Sell Road, for a transfer station permit from the Illinois Environmental Protection Agency (IEPA), which requires approval of the municipality in which they are located before seeking approval from the IEPA.

Moved by Beauvais, seconded by Becker, to concur with Staff recommendation and recommend to the City Council to approve the construction and demolition transfer station application to the Illinois Environmental Protection Agency for Disposal Management Services, 101-103 Sell Road. Motion declared carried.

COMMUNITY DEVELOPMENT - Alderman Becker, Chair

ZONING CASE  
02-79-A  
MAP AMEND./  
1601-03-09  
HILLS AVE.:

Acting City Manager-EDC Director Schneider reviewed his memo of January 28, 2003, regarding the request for a Map Amendment to change the zoning from R-1 Single-Family Residential District to C-3 General Commercial District for property located at 1601-03-09 Hills Avenue (River and Rand Roads intersection); the Des Plaines Plan Commission voted 2-1 in favor of the rezoning and the recommended conditions, but motion failed because three (3) votes are required for passage; the Staff recommends approval of the rezoning and the recommended conditions, which are:

DM

HILLS AVE.  
(Cont'd.)

--construction of the proposed retail use must begin within one year of City Council approval or the zoning classification will revert to R-1 Single-Family Residential District;  
--petitioner must submit a fully dimensioned and detailed site plan and separate landscape plan for Staff review, comment and approval, before applying for a building permit;  
--there be no access to Hills Avenue;  
--a landscape buffer be constructed along the entire Hills Street frontage consisting of a 6-8 foot high opaque wall built of face brick and/or other approved material; the wall shall be set back 5-10 feet from the petitioner's property line along Hills Avenue and contain trees, shrubs and grass and/or plant ground cover.

The petitioner, Dan Pontarelli, Pontarelli Builders, 7001 W. Higgins Road, Chicago, IL 60656, addressed the Committee of the Whole and answered questions from the aldermen; he wants to attract the highest quality of retailers for that corner.

Alderman Becker stated that he is concerned that there is not enough of a buffer between this project and the neighbors; this developer should be encouraged but the project needs more work; he is not ready to vote this evening.

Alderman Beauvais stated that there have been no meetings with the residents in the area; we should not piece meal this property; that corner is such an eyesore; the access to Hills Avenue is a big issue with her; how will the traffic flow?; we need to know what we will be putting on this site.

Mr. Pontarelli stated that he will work with the City to "work out the bugs."

Alderman Sayad thanked Mr. Pontarelli for his interest in this corner; he should meet with the Ward alderman and maybe the Economic Development Commission; he should come back with a solid plan.

Alderman Brookman stated that she did some research with the County and these lots are both legal and buildable; we need to clear this up.

Alderman Becker stated that the Staff and Mr. Pontarelli with meet and work on these concerns of the aldermen.


Both Alderman Smith and Argus agreed that the rezoning should be granted; the project will come back to the aldermen at another time. Mr. Pontarelli stated that the rezoning will help him get retailers.

Mr. Gary Danfield, 655 River Road, addressed the Committee of the Whole, stating that there have been problems in this area for a long time; Hills Avenue should not come out onto River Road; we may need to make some concessions as to what can go there.

Ms. Linda Caruth, 1868 Bennett Place, addressed the Committee of the Whole asking if this property is in the flood plain; the audience needs to see what the petitioner is presenting.

The owner of the corner property addressed the Committee of the Whole stating that he is meeting with the City about cleaning up his property; he has an engineer looking at this site.

Mr. Ken Johnson, 1602 Hills Avenue, addressed the Committee of the Whole stating that he has lived here 40 years; he objects to this zoning change; there would be flooding, noise, lighting and traffic problems; the City should improve this corner but not with a zoning change.



HILLS AVE.  
(Cont'd.)

Mr. Dan Gaspar, 1619 Hills Avenue, addressed the Committee of the Whole stating that he would be impacted by this project because his house is right next door; the lights would be shining on him; we need time to express our concerns; something has to be done with this property, but look at the corner first.

Alderman Beauvais stated that she would like to meet with Alderman Becker, Acting City Manager-EDC Director Schneider, the owner of the corner property and Mr. Pontarelli to discuss this matter.

Moved by Brookman, seconded by Beauvais, to recommend to the City Council that further discussion on Zoning Case 02-79-A regarding a Map Amendment to rezone property located at 1601-03-09 Hills Avenue from R-1 Single-Family Residential District to C-3 General Commercial District be POSTPONED until April 21, 2003. Motion declared carried.

MAYOR ARREDIA ASSUMED THE CHAIR AND DECLARED THE CITY COUNCIL BACK IN SESSION

ORDINANCE  
M-2-03  
CHURCH ST.  
RIGHT-OF-WAY  
VACATION:

Moved by Sayad, seconded by Smith, to adopt Ordinance M-2-03, AN ORDINANCE FOR THE VACATION OF THE CHURCH STREET RIGHT-OF-WAY, WEST OF BELLAIRE AVENUE, INCLUDING THE VACATION OF THE WATER MAIN EASEMENT WITHIN SAID RIGHT-OF-WAY. Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

ORDINANCE  
M-11-03  
REVISIONS/  
CITY COUNCIL  
RULES:

Moved by Sayad, seconded by Murphy, to place on First Reading Ordinance M-11-03, AN ORDINANCE AMENDING TITLE I, "ADMINISTRATIVE" CHAPTER 6, "CITY COUNCIL" TO ADDRESS CERTAIN HOUSEKEEPING MATTERS (formerly 1-6-8 and 1-6-9). Motion declared carried.

Alderman Brookman requested that the record show that she is voting no on Rule VIII and Rule XXVIII.

ANNEXATION  
AGREEMENT/  
9661 GOLF:

Resolution  
R-26-03

Moved by Sayad, seconded by Becker, to concur with recommendation of Committee of the Whole held February 10, 2003, to approve the Water's Edge Condominium project and annexation agreement proposed for property located at 9661 Golf Road (formerly Fisherman's Dude Ranch), including the access roadway from Golf Road to the Bay Colony parking lot, contingent upon results of traffic studies to be completed within the next two (2) weeks; and further recommend to adopt Resolution R-26-03, A RESOLUTION AUTHORIZING THE EXECUTION OF AN "ANNEXATION AGREEMENT" FOR THE PROPERTY COMMONLY KNOWN AS 9661 GOLF ROAD, "WATER'S EDGE CONDOMINIUMS" BY THE MAYOR AND ATTESTED TO BY THE CITY CLERK OF THE CITY OF DES PLAINES. Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

WARRANT  
REGISTER:

Resolution  
R-25-03

Moved by Sayad, seconded by Christiansen, to concur with recommendation of Committee of the Whole to adopt Resolution R-25-03, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES PLAINES THAT THE FOLLOWING BILLS ARE DUE AND PAYABLE AND THAT THE MAYOR AND CITY CLERK BE AND ARE HEREBY AUTHORIZED TO MAKE PAYMENT FOR SAME. Total: \$2,710,822.28. Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

*DM*

AMENDMENTS/  
BOARD OF FIRE  
& POLICE  
COMMISSIONERS  
RULES & REGS:

Ordinance  
M-12-03

Moved by Beauvais, seconded by Sayad, to concur with recommendation of Committee of the Whole to approve Option B of the proposed changes to the Revised Rules and Regulations of the Board of Fire & Police Commissioners, and place on First Reading Ordinance M-12-03. Motion declared carried.

Moved by Beauvais, seconded by Becker, to advance to Second Reading and adopt Ordinance M-12-03, AN ORDINANCE ADOPTING THE AMENDMENTS TO THE REVISED RULES AND REGULATIONS OF THE BOARD OF FIRE & POLICE COMMISSIONERS. Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

TRANSFER  
STATION  
PERMIT/  
101-103 SELL:

Moved by Brookman, seconded by Christiansen, to concur with recommendation of Committee of the Whole to approve the construction and demolition transfer station application to the Illinois Environmental Protection Agency for Disposal Management Services, 101-103 Sell Road. Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

ZONING CASE  
02-79-A  
MAP AMEND./  
1601-03-09  
HILLS AVE.:

Moved by Becker, seconded by Brookman, to concur with recommendation of Committee of the Whole that further discussion on Zoning Case 02-79-A regarding a Map Amendment to rezone property located at 1601-03-09 Hills Avenue from R-1 Single-Family Residential District to C-3 General Commercial District be POSTPONED until April 21, 2003. Motion declared carried.

BID DATE/  
EMERG. VEH.  
PRIORITY  
SYSTEMS:

City Clerk McAllister announced that the bid return date for the 2003 Emergency Vehicle Priority Systems has been changed from February 20, 2003, to 3:00 p.m., Thursday, February 27, 2003.

ORDINANCE  
M-11-03  
REVISIONS/  
CITY COUNCIL  
RULES:

Moved by Smith, seconded by Argus, to advance to Second Reading and adopt Ordinance M-11-03, AN ORDINANCE AMENDING TITLE I, "ADMINISTRATIVE" CHAPTER 6, "CITY COUNCIL" TO ADDRESS CERTAIN HOUSEKEEPING MATTERS (formerly 1-6-8 and 1-6-9). Upon roll call, the vote was:

AYES: 8-Beauvais, Christiansen, Murphy, Sayad,  
Brookman, Becker, Smith, Argus

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

Alderman Brookman requested that the record show that she is voting no on Rule VIII and Rule XXVIII.

AJOURNMENT:

Moved by Becker, seconded by Brookman, that the regular meeting of the City Council adjourn. Motion declared carried. Meeting adjourned at 10:25 p.m.

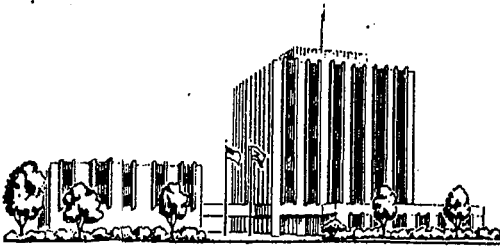


Donna McAllister, MMC - CITY CLERK

APPROVED BY ME THIS \_\_\_\_\_

DAY OF \_\_\_\_\_, 2003

\_\_\_\_\_  
Anthony W. Arredia, MAYOR



## CITY OF DES PLAINES

1420 Miner / Northwest Highway ■ Des Plaines, Illinois 60016-4498 ■ (847) 391-5300

March 26, 2003

Mr. Joe Anderson  
Disposal Management Systems, Inc.  
101-103 Sell Road  
Des Plaines, IL 60018

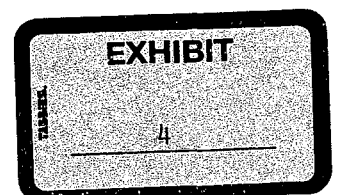
Dear Mr. Anderson:

On February 18, 2003, the Des Plaines City Council approved local siting for a transfer station at Disposal Management Systems (DMS), Inc. located at 103 Sell Road in Des Plaines, IL. The facility has provided the City adequate documents and has satisfied the criteria under the Illinois Environmental Protection Act ("ACT") Title X, Section 39.2. Disposal Management Systems, Inc. may proceed in applying to the Illinois Environmental Protection Agency (IEPA) to obtain a transfer station permit.

The City's approval is contingent upon the following conditions:

1. Materials accepted and recycled shall be limited to construction and demolition debris (pallets, wood, concrete, cardboard, bricks, asphalt, steel, aluminum, and clean dirt/gravel/sand). Any other material (i.e. refuse, yard waste, etc.) accepted to the facility for disposal will void this approval and the facility will be under violation.
2. The approval shall only be for Disposal Management Systems, Inc. located at 103 Sell Road. If DMS re-locates to another location in Des Plaines, DMS must re-submit an application for the new location and provide any/all new documents.
3. DMS shall maintain record keeping of load volumes (in and out), contents, and destination.
4. DMS shall keep property clean and orderly and maintain safety and emergency requirements.
5. DMS shall keep operating hours as stated on the July 10, 2002 facility description correspondence. Daily hours are 5 AM to 5 PM.

The City is enclosing a signed and notarized IEPA Certification of Siting Approval (LPC-PA8) that was supplied with the original DMS application. Please provide us with a copy of your IEPA permit when you receive it.



Disposal Management Systems, Inc.  
Page 2

If you have any questions, please contact Ruth Broder, Community Development Coordinator, at (847) 391-5381.

Sincerely,

A handwritten signature in cursive script that reads "Wm. Schneider, Jr.".

William Schneider  
Acting City Manager  
City of Des Plaines

Attachment

Cc: Ruth Broder, Community Development  
Christine Wolski, Public Works



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

RENEE CIPRIANO, DIRECTOR

## CERTIFICATION OF SITING APPROVAL (LPC-PA8)

Name of Applicant: Disposal Management Systems, Inc.  
Address of Applicant: 103 Sell Rd  
Name of Site: Disposal Management Systems, Inc. Recycle Center  
Site Information: Nearest City: Des Plaines, IL County: Cook

1. On February 18, ~~XX~~2003, the City of Des Plaines of  
(governing body of county or municipality)  
Cook County approved the site location suitability of Disposal Management Systems, Inc.  
(county or municipality) (name of site)

as a new pollution control facility in accordance with Section 39.2 of the Illinois Environmental Protection Act, Ill. Rev. Stat., ch. 111 ½, Section 1039.2.

2. The facility was approved for the following activities:

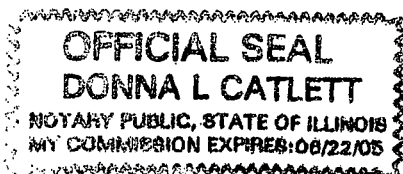
waste storage (\_\_\_), landfill (\_\_\_), waste disposal (\_\_\_), waste transfer station (X)  
waste treatment (\_\_\_), waste incinerator (\_\_\_).

3. Attached to this certification is a true and correct statement of the legal description of the site as it was approved by the aforementioned local governing body. See Drawg.

4. Attached to this certification is a true and accurate statement of conditions, if any, under which the approval was provided. (Note: These conditions are provided for information only to the IEPA. The IEPA is not obligated to monitor or enforce local conditions.)

5. The undersigned has been authorized by the City Council of  
(governing body of county or municipality)

the City of Des Plaines execute this certification on behalf of the City of Des Plaines  
(county or municipality) (county or municipality)



NAME: [Signature]

TITLE: MAYOR

ATTEST:

[Signature]  
Deputy City Clerk

SUBSCRIBED AND SWORN TO BEFORE ME

this 25th day of March, 2003

[Signature]

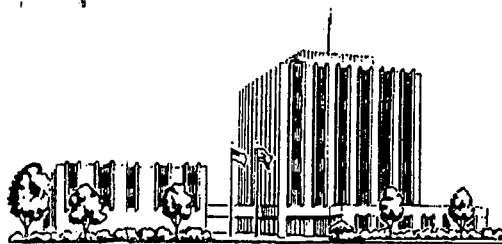
Notary Public

jah\002892p.doc

IL 532 1429  
LIC 218 Rev. Apr.-96

GEORGE H. RYAN, GOVERNOR

This Agency is authorized to require this information under Illinois Revised Statutes, 1979, Chapter 111 ½, Section 1039. Disclosure of this information is required under that Section. Failure to do so may prevent this form from being processed and could result in your application being denied. This form has been approved by the Farm Management Center.



## **CITY OF DES PLAINES**

1420 Miner / Northwest Highway ■ Des Plaines, Illinois 60016-4498 ■ (847) 391-5300

March 21, 2003

### **MEMORANDUM**

**TO:** Nancy Peterson

**FROM:** Ruth Broder

**SUBJECT:** FOI #03-069

Attached is the information requested in the above-referenced FOI:

1. **A copy of the final written decision of the City of Des Plaines in the matter of the Disposal Management Systems, Inc application for siting a transfer station at 101-103 Sell Road in Des Plaines, Illinois.**

Attached is a certified copy of the minutes of the February 18, 2003 meeting of the Des Plaines City Council at which the City Council voted to approve the transfer station application (page 7). Also attached is a copy of the Certification of Siting Approval (LPC-PA8), signed by Mayor Anthony W. Arredia and attested by City Clerk Donna McAllister. A letter will be sent to Disposal Management Systems, Inc. the week of March 24, 2003, along with the Certification, describing the conditions of approval. A copy will be sent to SWANCC.

2. **A copy of all written notices provided by the City of Des Plaines or by the siting applicant of the December 2, 2002 public hearing in the matter of Disposal Management Systems, Inc. application for siting of a transfer station at 101-103 Sell Road in Des Plaines, Illinois.**

A copy of the written notice is attached, along with a list of the persons and agencies to whom it was sent.

3. **A copy of all notifications published in a newspaper of general circulation providing notice of the December 2, 2002 public hearing in the matter of the Disposal Management Systems, Inc. application for siting of a transfer station at 101-103 Sell Road in Des Plaines, Illinois.**

A copy of the notice published in the Journal and Topics Newspaper on Friday, November 15, 2002 is attached.



**EXHIBIT**

5



4. **A copy of all correspondence, documents, photographs, and any other data or information provided to the City of Des Plaines or any of its individual employees or officials by Disposal Management Systems, Inc. in connection with its application for siting a transfer station at 101-103 Sell Road, Des Plaines, Illinois, including, but not limited to, any emergency response or fire, hazardous substances or spill response plan.**

The following correspondence is attached:

- a. A copy of Disposal Management Systems, Inc. initial letter to the City of Des Plaines, dated August 5, 2002, with attachments.
  - b. A copy of a letter and attachments, dated January 22, 2003 from Joe Anderson, Disposal Management Systems, Inc. to Ruth Broder, City of Des Plaines, responding to Ms. Broder's January 16, 2003 letter to Mr. Anderson.
5. **A copy of any letter or other form of correspondence dated January 16, 2003 from Ruth Broder to Disposal Management Systems, Inc. or pertaining to Disposal Management Systems, Inc.**

A copy of a letter dated January 16, 2003 from Ruth Broder, City of Des Plaines, to Joe Anderson, Disposal Management Systems, is attached.

6. **A copy of any letter or other form of correspondence dated February 12, 2003 from Disposal Management Systems, Inc. to Ruth Broder or any other employee or official of the City of Des Plaines pertaining to emergency response or fire, hazardous substances or spill prevention and response at the proposed transfer station.**

A copy of a letter dated February 12, 2003 from Joe Anderson, Disposal Management Systems, Inc. to Ruth Broder, City of Des Plaines, is attached.

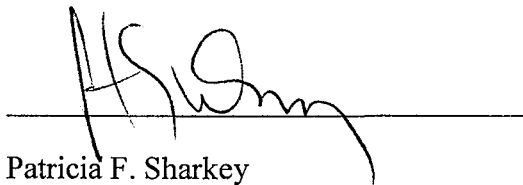
County of Cook)  
State of Illinois )

**AFFIDAVIT**

I, Patricia F. Sharkey, an attorney registered to practice law in Illinois, hereby attests to the following :

In March 2003, I filed a Freedom of Information Act (FOIA) request on behalf of SWANCC with the City of Des Plaines requesting the City's "final written decision" in the matter of the Disposal Management Systems, Inc. application for a waste transfer station siting approval. The City responded with a March 21, 2003 memorandum which provided the minutes of the February 18, 2003 City Council Meeting, a Certification of Siting Approval Form (LPC-PA8), and stated: "A letter will be sent to Disposal Management Systems, Inc. the week of March 24, 2003, along with the Certification, describing the conditions of approval. A copy will be sent to SWANNC." A true and correct copy of a March 21, 2003 memorandum is attached hereto. No other documents were provided in response to SWANCC's request for the City's "final written decision." The March 26, 2003 letter from the City to Disposal Management Systems, Inc. is the only other City document which has been provided to me in response to that FOIA request.

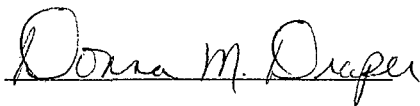
Further affiant sayeth not.



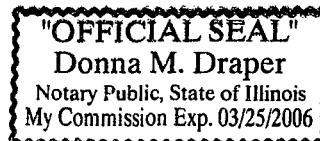
Patricia F. Sharkey  
Mayer, Brown, rowe & Maw  
190 South LaSalle Street  
Chicago, Illinois 60603

Signed and sworn before me

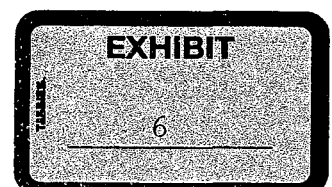
this 29<sup>th</sup> Day of April, 2003.



Notary Public



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**PROOF OF SERVICE**

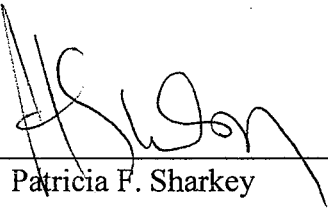
Patricia F. Sharkey, an attorney, hereby certifies that she served a copy of the foregoing Notice of Filing and Petition for Hearing to Contest Site Location Approval on the persons listed below by UPS Overnight Delivery, on April 29, 2003.

Mayor Anthony W. Arredia  
City of Des Plaines  
City Hall  
1420 Miner Street  
Des Plaines, IL 60016-4498

Joe Anderson  
Disposal Management Systems, Inc.  
420 Cutters Mill Lane  
Schaumburg, IL 60194

Donna McAllister  
City Clerk  
City of Des Plaines  
City Hall  
1420 Miner Street  
Des Plaines, IL 60016-4498

Joe Anderson  
Disposal Management Systems, Inc.  
103 Sell Road  
Des Plaines, IL 60018



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Patricia F. Sharkey