

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
MAY 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.

Respondent.

No. PCB 03-161

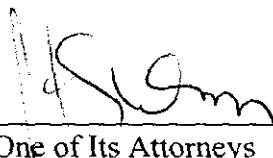
(Pollution Control Facility
Siting Facility)

NOTICE OF FILING

TO: See Attached Proof of Service

PLEASE TAKE NOTICE that on May 29, 2003, we filed with the Illinois Pollution Control Board, nine copies and an original of the attached Solid Waste Agency of Northern Cook County's **RESPONSE TO CITY'S MOTION IN OPPOSITION TO SWANCC'S MOTION FOR RECONSIDERATION** in the above entitled matter.

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

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STATE OF ILLINOIS
Pollution Control Board

Respondents.

No. PCB 03-161

(Pollution Control Facility
Siting Facility)

Petitioner Solid Waste Agency of Northern Cook County (“SWANCC”) by Mayer, Brown, Rowe & Maw, its attorneys, hereby responds to the City of Des Plaines’ Motion in Opposition to SWANCC’s Motion for Reconsideration of the Board’s April 17, 2003 order dismissing this action, stating as follows:

1. The City of Des Plaines' contention that Disposal Management System's ("DMS") siting application issued by default is both refuted by the record created by the City and DMS and at odds with representations made to City Officials, SWANCC and the Des Plaines City Council itself in January, February and March 2003.

2. The following documents, all of which are public documents which SWANCC obtained from the City of Des Plaines pursuant to formal Freedom of Information Act requests before it filed its petition in this case (Exhibits 1 and 2 hereto), demonstrate that DMS waived the statutory review deadline by continuing to actively participate in the siting review process.¹ They further demonstrate that, on the basis of DMS's ongoing assurances that he would not enforce

¹ Please note that emphasis has been added to excerpts below from the attached exhibits.

the statutory deadline, the City continued to review the DMS application and to make representations to SWANCC, the public and its own City Council as to the on-going nature of the siting process.

A. January 20, 2003 e-mail correspondence from Ruth Broder, City of Des Plaines Community Development Coordinator, to William Schneider, Acting City Manager (Exhibit 3 hereto):

"I met Friday with Chris Wolski [Keep Des Plaines Beautiful Coordinator] and she gave me a draft copy of her comments on the DMS request for siting approval and SWANCC's comments....Essentially, we both agree that the DMS request is probably OK, but that they need to supply us with a copy of their original EPA permit and some additional information, as mentioned in SWANCC's comments. Christine is preparing a letter to DMS outlining what is needed. DMS has already said they will send the permit copy and has been sent a copy of SWANCC's comments...*The best course of action would probably be for DMS to request to amend their application and resubmit it with the additional information. This would give them (and us) 90 additional days beyond the February 10 deadline to submit the information and for us to review it.* I doubt it would take nearly that long either...To summarize: though it is very likely that we will end up recommending in favor of DMS, they should supply this additional information so that we can have it on record and provide an answer to SWANCC's objections...."

B. January 22, 2003 letter from Joe Anderson, DMS, to Ruth Broder Re: Request to Establish a Transfer Station at 103 Sell Rd. Des Plaines, IL (Exhibit 4 hereto):

"In response to your letter of Jan. 16, 2003, may I first mention that we at DMS have not tried to shortchange the permitting process for a transfer station. ... We would like to respond to the items brought up by SWANC [sic]. Enclosed you will find a response to each of the items in their letter of Dec.31, 2002....As requested our STATE EPA # is 0310635488 – Cook County..."

C. January 22, 2003 e-mail correspondence from Christine Wolski to Ruth Broder (Exhibit 5 (bottom) hereto):

"Please review second draft. I made the changes you had suggested. Thanks. If it's fine, I will email it to Bill and ask him to

sign it and mail it (since I won't have his signed copy.) *By the way, should we specify a date to receive this information (i.e. calculate 90 days from the 180th day we have for replying back to him or 90 days from the Feb 3 Council agenda)? Do you want to be the contact person since already have been so far?... I will email you the council agenda letter tomorrow. Basically it is recommending the council to postpone a decision on this until further information is provided...*"

D. January 23, 2003 e-mail correspondence from Ruth Broder to Christine Wolski

Re: DMS Letter (Exhibit 5 (top) hereto):

"Chris this looks very good. I would just suggest that we hold off on sending it because Joe Anderson is planning on coming by today to drop off the copy of the permit. He is also bringing other information that he compiled based on SWANCC's comments. We should look this over and delete from the letter anything that he will have already given us. *He is OK with delaying the vote and willing to amend the application, but he does want to get this resolved as soon as possible. He is very willing to try and supply us with whatever information we ask for and will try to do so within a couple of weeks, max. therefore, I think it would be a good idea to put an end date in the letter, (90 days from February 10 would be May 11), but we should shoot for the first council meeting in March for a vote...*"

E. January 24, 2003 Internal Memorandum from Tim Oakley, City Engineer, to Ruth

Broder, Community Development Coordinator, Re: DMS Waste Transfer Station Application (Exhibit 6 hereto):

"I have reviewed the DMS application and the comments offered by SWANCC and KDPB. I agree that the application is seriously lacking pertinent information to qualify DMS as a waste transfer station..."

F. January 30, 2003 e-mail correspondence from William Schneider to Christine

Wolski (Exhibit 7 (bottom) hereto):

"Joe Anderson called me about this...Can you two please coordinate a conference call with him for next steps....Why would he have to amend his application? I thought he just responded to the SWANCC letter and now it is up to the City Council?...Please advise which council meeting it will be on..."

G. January 30, 2003 e-mail correspondence from Christine Wolski to William

Schneider (Exhibit 7 (top) hereto):

"Bill, Ruth has been the contact person for DMS. I passed my comments to her after I reviewed both the DMS application and SWANCC's comments. Afterwards, I believe she has met with them and spoken to them by phone. The only modification they needed to their application was additional information for the cirterias [sic] to which they agreed... This was supposed to be on the Feb 3 council agenda but when I had asked Ruth if this was necessary since DMS agreed to provide the additional information right away, she stated that we should not have to. If DMS could not provide the information in a timely manner, the council would be asked to postpone a decision until the information was provided. however, since DMS provided the information quickly, Ruth said she would go over it with my comments and see if what we needed was provided. We agreed that staff recommendation would be presented to council the 2nd meeting in Dec [sic]... I will speak to Ruth in regards to the additional information DMS provided. (I have not seen what they had given her.) We know what the decision will be but we need that extra information on file, especially when we reply to SWANCC. We'll talk w/ DMS."

H. January 30, 2003 e-mail correspondence from Brooke Beal, Executive Director of SWANCC, to William Schneider (Exhibit 8 (bottom) hereto):

"When will the City Council formally consider the DMS transfer station application for siting approval?... "

I. January 30, 2003 e-mail correspondence from William Schneider to Brooke Beal (Exhibit 8 (top) hereto):

"I think we are shooting for the March 3rd meeting – you can call our City Clerk's Office at 847-391-5310 for follow up"

J. February 4, 2003 e-mail correspondence from Christine Wolski to Ruth Broder (Exhibit 9 (bottom) hereto):

"... Even though DMS gave us information on emergencies, it does not seem to satisfy emergency response to accidental spills or

sudden asbestos loads. (I agreed with you on this before.) Perhaps Mr. Anderson can supply the City with a plan...I would recommend an approval for a conditional/restricted permit (not allowing any other material besides what is stated in the application – once they provide an emergency response plan...The deadline for the February 18th Council is this Friday – 2/2/02. Perhaps we can get on this agenda rather than March 3? That way DMS does not have to wait another few weeks... ”

K. February 4, 2003 e-mail correspondence from Ruth Broder to Christine Wolski

(Exhibit 9 (top) hereto):

“I basically agree with you on the application. Would you mind writing DMS a letter to request that they supply an emergency response plan? This seems to be everyone’s primary concern....As to the schedule, I had thought it was on the agenda for February 18...”

L. February 4, 2003 e-mail correspondence from Christine Wolski to Ruth Broder

(Exhibit 10 (bottom) hereto):

“I spoke with Donna Czech from IEPA in regards to DMS...Since I initially called to see if I can get a copy of their permit and possibly emergency plan, but then found there is no permit, I inquired if the IEPA questioned an emergency response plan... Since Criteria 7 states, ‘ if the facility will be treating, storing or disposing of hazardous waste...’ and DMS state that they are not, I still think we should at least get a little emergency response plan. I have a feeling SWANCC will be on this. I know you wanted me to write them but do you think I should call them instead? It may be faster service.”

M. February 6, 2003 e-mail correspondence from Ruth Broder to Christine Wolski

(Exhibit 10 (top) hereto):

“...I think a phone call would be fine, especially since Donna McAllister has informed me that the case IS on the February agenda... Joe Anderson/DMS phone # is (847) 390-0300. another number is (847) 375-9626. Do you mind doing the memo? If it is going to be any problem, let me know and I’ll ask Donna to reschedule to the March 3.”

N. February 6, 2003 e-mail correspondence from William Schneider to Ruth Broder (Exhibit 11 (top) hereto):

“ OK – I also spoke to the County environmental department on other issues and they said that they would send a letter in support of the permit to offset SWANCC opposition...”

O. February 6, 2003 e-mail correspondence from Ruth Broder to Brooke Beal and William Schneider (Exhibit 11 (bottom) hereto):

“Actually Donna has told me that it is Feb. 18, but we may need o reschedule to March 3, if we don't have time to prepare a memo to Council. We are still waiting on a piece of information from DMS.”

P. February 6, 2003 memorandum from Christine Wolski to Donna McAllister, City Clerk, and William Schneider, Acting City Manager, Re: Item for February 18, 2003 City Council Committee Agenda, Disposal Management Systems Application (Exhibit 12 hereto):

“...The Community Development Department and KDPB recommends the Council to approve the construction and demolition transfer station application for Disposal Management Services...”

Q. February 12, 2003 letter from Joe Anderson, DMS, to Ruth Broder (Exhibit 13 hereto):

“ We would like to respond to your concerns of asbestos entering our facility and of oil leaks from the equipment...”

R. February 18, 2003 email correspondence from Christine Wolski to Ruth Broder (Exhibit 14 (bottom) hereto):

“ Can you call M. Anderson to confirm his presence at the council meeting (or his representative)? Did he mail you an emergency respose [sic] plan? I'll be in City Hall this afternoon – can I get a copy of it?... ”

S. February 18, 2003 e-mail correspondence from Ruth Broder to Christine Wolski

(Exhibit 14 (top) hereto):

"I will call him today. He did not really send an emergency response plan, per se, but did send a brief letter, dated February 12, outline the steps that would be taken incase of an emergency. You are welcome to have a copy of it..."

T. February 18, 2003 e-mail correspondence from Brooke Beal to William

Schneider (Exhibit 15 hereto):

" I saw that the DMS transfer station is on tonight's meeting agenda. Is there any information that was sent to the City Council that is public information? If there is, can I get a copy prior to the meeting..."

U. The February 18, 2003 action of the City of Des Plaines Public Works Committee

(Exhibit 16 (at p. 7) hereto) , in which, according to the City Council minutes:

"Alderman Brookman reviewed the request from Disposal Management Systems, 101-103 Sell Road, for a transfer station permit for 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 the 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."

V. The February 18, 2002 action of the City of Des Plaines City Council (Exhibit 16

(last page)), in which, according to the City Council minutes:

"Transfer Station Permit/101-103 Sell: Moved by Brookman, seconded by Christiansen, to concur with the 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..."

W. February 20, 2003 e-mail correspondence from Christine Wolski to Ruth Broder (Exhibit 17 hereto):

“A letter needs to be sent to DMS stating that they have the city’s approval and may go forth to apply for an IEPA transfer station permit. Who will be writing this – CD or PW? It will need to be signed by Bill.”

X. March 11, 2003 Freedom of Information Act Request from SWANCC attorneys to City of Des Plaines (See Exhibit 2 hereto):

“Pursuant to the Illinois Freedom of Information Act (“FOIA”) (5 ILCS 140/1 et seq.), I hereby request a copy of the following public records: ... 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...”

Y. March 21, 2003 memorandum from Ruth Broder to Nancy Peterson, Des Plaines FOIA officer, included in the City’s response to SWANCC’s FOIA request (Exhibit 18 hereto):

“ Attached is the information requested in the above referenced FOI:[Request] 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 ... [Response] 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.”

Z. March 26, 2003 letter from William Schneider, Acting City Manager, to Joe Anderson, DMS (Exhibit 19 hereto):

“ 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: ...The City is enclosing a signed and notarized IEPA Certification of Siting Approval (LPC-PA8) that was supplied with the original DMS application... ”

3. The e-mail correspondence in this record indicates that DMS verbally agreed to waive the deadline in conversations with City officials. But even if DMS didn't explicitly waive the deadline, it did so by continuing to actively participate in the siting process and leading all of the parties involved—including SWANCC – that it had waived the deadline. By way of meetings, phone calls, and sending the City additional information in an effort to support its application right up to and after the purported February 4, 2003 decision deadline, DMS waived its right to a decision by default. City of Rockford v. County of Winnebago (App. 2 Dist. 1989) 186 Ill. App. 3d 303, 542 NE2d 423 (Siting applicant waived compliance with the 180-day statutory deadline for action by the local siting body when it continued to participate in proceedings without notice to siting body of its intent to hold to the 180-day deadline.); Citizens Against the Randolph Landfill (CARL) v. Pollution Control Board (App.4 Dist. 1988), 178 Ill. App. 3d 686, 533 NE2d 401 (By participating in public hearings after the deadline for such hearings had passed, the siting applicant waived its right to a decision on or before that date.)

4. Disingenuously, DMS and the City now claim all of their various actions leading up to and including its March 26, 2003 approval letter were “mere formalities.” But the record tells a different story. It is clear that the City officials and employees working in the siting application process, the Village Manager and the City Council itself all believed and were led by DMS to believe: that their actions were governed by Section 39.2 of the siting process, that they were working with DMS to get additional information to support the City's action on the application, that DMS had agreed to waive the statutory deadline, that the City's Council vote

was a necessary action, and that the City's March 26, 2003 written decision, reflecting the February 18, 2003 vote and including multiple conditions on DMS's operations, was a required and meaningful document. The City and DMS cannot re-write history at this point and claim that the DMS application issued by default and that all of the City's labor and actions on that application in the days and weeks leading up to and following that date were, as DMS puts it in their Objection to the Petition, a "mere formality."

5. If this matter has been plagued by ambiguity as to when the 35 days for appeal was triggered, it is by the actions of DMS and the City themselves. Third party siting appellants shouldn't have to guess at when an appeal period is triggered. A siting applicant and siting authority have a duty to the public to make their actions clear. When a siting applicant tells City officials that it has waived a decision deadline and leads a City Council and the interested public to believe it has waived the deadline, and then, when faced with an appeal, tries to hide behind the statutory deadline, that applicant should not be rewarded with a default approval that cuts-off the public's rights. That the City itself should support this revisionist history, even at the risk of giving up the conditions they themselves placed on DMS's operations in their written approval, also should not be condoned by the Board.

6. Finally, the City's argument that the April 17, 2003 Board decision in this matter is *res judicata* as to the Board's jurisdiction in this matter is simply wrong. A motion to reconsider stays the effect of the order for which reconsideration is sought until final disposition of the motion. 35 Ill. Admin Code 101.520(c)

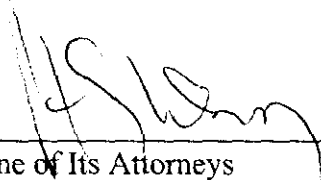
WHEREFORE, SWANCC respectfully requests that the Board deny the City's Motion in Opposition in this matter and, to the extent not considered moot at this time, also deny the prior DMS

and City motions to dismiss and grant SWANCC's Motion for Reconsideration of the Board's April 17, 2003 order.

Dated: May 29, 2003

Respectfully submitted,

SOLID WASTE AGENCY OF NORTHERN
COOK COUNTY

By: 

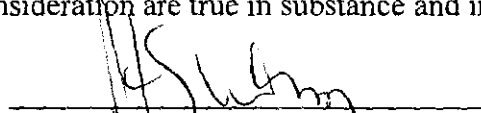
One of Its Attorneys

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

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

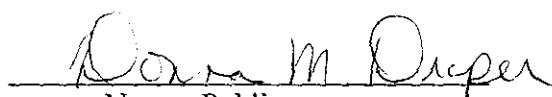
AFFIDAVIT OF ATTORNEY

The undersigned, Patricia F. Sharkey, being first duly sworn upon oath states that she is one of the attorneys for the Petitioner in this action, Solid Waste Agency of Northern Cook County vs. City of Des Plaines, Illinois and Disposal Management Systems, Inc., PCB 03-161, and that based upon her personal knowledge and investigation of the facts stated in the attached Response to City's Motion in Opposition to SWANCC's Motion for Reconsideration, certifies her knowledge and belief that the allegations contained in this Response to City's Motion in Opposition to SWANCC's Motion for Reconsideration are true in substance and in fact.

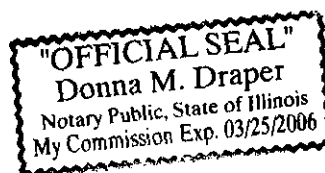

PATRICIA F. SHARKEY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Signed and sworn to by Patricia F. Sharkey, who is personally known to me and appeared before me, a Notary Public, in and for the County of Cook, State of Illinois, on this 29th day of May, 2003, in order to affix her signature as her free and voluntary act.


Notary Public

Patricia F. Sharkey
Attorney for Respondents
Mayer, Brown, Rowe & Maw
190 South LaSalle Street
Chicago, Illinois 60603
312-782-0600



(Office Use Only) 02-_____
RECEIVED by:_____
Date:_____ Time:_____

REQUEST FOR PRODUCTION OF RECORDS

TO: Donna McAllister, City Clerk
City of Des Plaines
1420 Miner Street
Des Plaines, IL 60016

Date: February 20, 2003

I hereby request production of the following records:

The entire record forwarded to the Board including, but not limited to: 1) a Certified copy of the resolution that approved the DMS transfer station by the City Council on February 18, 2003 2) Copies of all correspondence between the City and Cook County, the IEPA and any other comments from the public or government bodies surrounding the DMS transfer station application for local siting approval.

Check which of the following apply:

_____ I will inspect these records at the Office of the City Clerk.

ALL I request copies of the following records and agree to pay \$0.05 per page
Therefore. (If requesting copies of all records listed above, state "all".)

ALL Please certify these documents. I agree to pay \$1.00 for each document certified,
which is in addition to the costs per page.

I warrant and represent that the records requested will not be used for purpose of furthering any commercial purpose.

NAME: Elizabeth C. Gresham

ADDRESS: 1616 East Golf Road

CITY: Des Plaines STATE: IL ZIP CODE: 60016

TELEPHONE: (Office) (847) 296-9205

(Home) (847) 259-1098

REPRESENTING: Solid Waste Agency of Northern Cook County

EXHIBIT

1

I, Elizabeth C. Gresham BEING DULY SWORN ON OATH STATE AS
FOLLOWS:

The records requested are to be used for the following purposes:

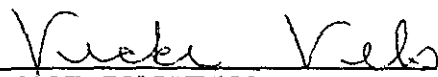
To keep abreast of current transfer station trends in the Cook County.

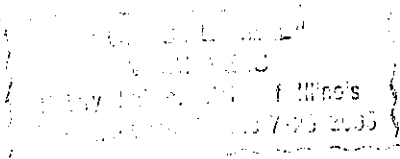
Dated: February 20, 2003


(Signature)

Subscribed and sworn to before me

This 20th
Day of February, 2003


NOTARY PUBLIC



INTER-OFFICE MEMORANDUM

City Attorney's Office

To: Nancy Peterson, Deputy City Clerk

From: Ray Bartel, Assistant City Attorney

Re: FOIA Request Number 03-047; Elizabeth Gresham

Date: March 3, 2003

I have reviewed the FOIA request by Elizabeth Gresham on behalf of SWANCC and the contents therein.

The information attached may be submitted to Ms. Gresham.

If you have any questions, please feel free to contact me at my office.

RPB:dl

dl\foia\approve Gresham SWANCC as is

MAYER, BROWN, ROWE & MAW

190 SOUTH LA SALLE STREET

CHICAGO, ILLINOIS 60603-3441

PATRICIA F. SHARKEY

COUNSEL

DIRECT DIAL (312) 701-7952

DIRECT FAX (312) 706-9113

psharkey@mayerbrownrowe.com

MAIN TELEPHONE

(312) 782-0600

MAIN FAX

(312) 701-7711

March 11, 2003

VIA UPS OVERNIGHT DELIVERY

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

Re: FOIA Request ; Disposal Management Systems, Inc. Transfer Station Siting

Dear Ms. McAllister:

Pursuant to the Illinois Freedom of Information Act ("FOIA") (5 ILCS 140/1 et. seq.), I hereby request a copy of the following public records:

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.
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 the Disposal Management Systems, Inc. application for siting of a transfer station at 101 -103 Sell Road in Des Plaines, Illinois.
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.
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.

EXHIBIT

2

MAYER, BROWN, ROWE & MAW

Donna McAllister

Page 2

March 11, 2003

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.

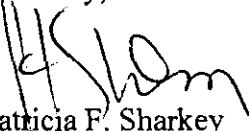
6. A copy of any letter or other form of correspondence dated February 12, 2003 from Disposal Management Systems, Inc. to Ruth Broder or any other employee or official of the City of Des Plaines pertaining to emergency response or fire, hazardous substances or spill prevention and response at the proposed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

In accordance with Section 8 of the FOIA (5 ILCS 140/8), I request that any public record that is exempt from disclosure under Section 7 of the FOIA (5 ILCS 140/7) but which contains material that is not exempt be produced with only the exempt material redacted. In addition, please identify each document withheld and the reason why it was not provided.

I agree to pay a fee of \$0.05 per page for the copying of this information and an additional fee of \$1.00 for the certification of each document. I also represent and warrant that the records requested will not be used for purpose of furthering any commercial purpose.

Please contact me at (312) 701-7952 at your convenience to discuss payment and any other issues you deem relevant. Thank you for your assistance.

Sincerely,

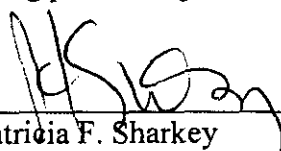


Patricia F. Sharkey

I, Patricia F. Sharkey, BEING DULY SWORN ON OATH SATE AS FOLLOWS:

The records requested are to be used for the following purposes:

A review of the public records of the siting proceeding.

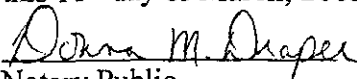


Patricia F. Sharkey

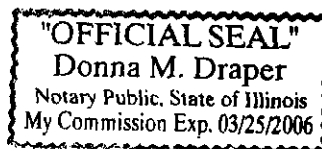
Dated: March 11, 2003

Subscribed and sworn to before me

this 11th day of March, 2003.



Notary Public



From: Ruth Broder
To: William Schneider
Date: 1/20/03 8:37AM
Subject: Disposal Management Systems

I met Friday with Chris Wolski and she gave me a draft copy of her comments on the DMS request for siting approval and SWANCC's comments.

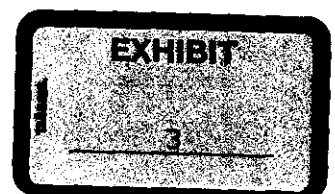
Essentially, we both agree that the DMS request is probably OK, but that they need to supply us with a copy of their original EPA permit and some additional information, as mentioned in SWANCC's comments. Christine is preparing a letter to DMS outlining what is needed. DMS has already said they will send the permit copy and has been sent a copy of SWANCC's comments.

The best course of action would probably be for DMS to request to amend their application and resubmit it with the additional information. This would give them (and us) 90 additional days beyond the February 10 deadline to submit the information and for us to review it. I doubt it would take nearly that long either way.

To summarize: though it is very likely that we will end up recommending in favor of DMS, they should supply this additional information so that we can have it on record and provide an answer to SWANCC's objections. I will forward you a copy of Christine's comments and letter when they are ready. In the meantime, I have also provided copies of DMS' application and SWANCC's comments to Tim Oakley for his review.

Ruth

CC: Christine Wolski



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630-963-8857

City of Des Plaines
Department of Community Development
1420 Miner St.
Room 301
DesPlaines, Il. 60016

RE: Request to Establish a Transfer Station at 103 Sell Rd. Des Plaines, Il

Dear Ms. Broder :

In response to your letter of Jan. 16, 2003 may I first mention that we at DMS have not tried to shortchange the permitting process for a transfer station. To the best of our knowledge we have abided by the State of Illinois's rules for permitting a transfer station. One area of confusion is what is required for the local siting and what is required for the state EPA. We supplied an accurate summary of our intentions to the City of Des Plaines, so that the council members could make an informed judgment. We have prepared, in the past, and are now submitting more details that we think only apply to the state EPA requirements. These items include things such as copies of our public notice mailings, detailed operating descriptions, floodplain information and other technical items.

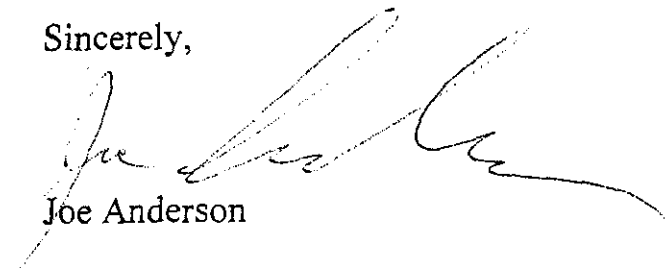
It is our understanding that the permitting process allows for local approval, followed up by the state EPA's technical evaluation of the plan, once local siting is approved. I would also like to note that we have had visits by staff personnel from the city of Des Plaines and Elk Grove Village to inspect our operation. We have worked with many people to make sure this project is completed in the proper way, including Mr. Gary Cima with the state EPA. and Mr. Hogensen from Des Plaines.

We would like to respond to the items brought up by SWANC. Enclosed you will find a response to each of the items in their letter of Dec. 31, 2002.

As requested our STATE EPA # is 0310635488—Cook County. Enclosed please see an inspection report dated April 26, 2002 from the state EPA.

We trust the enclosed documentation will answer all of your questions. If not, please call me @ 847-375-9626.

Sincerely,



Joe Anderson

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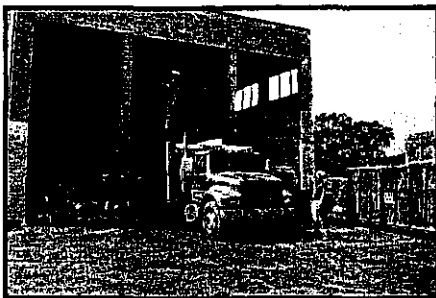


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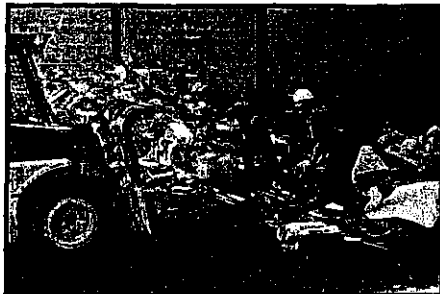
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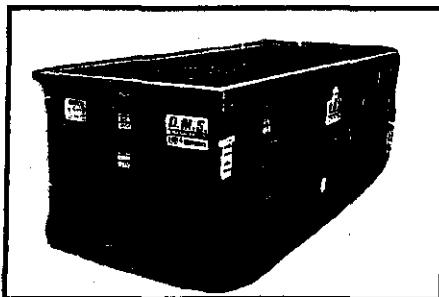
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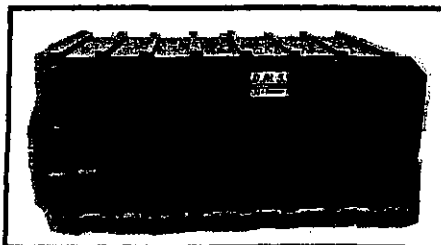
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DMS'S Response to SWANC'S letter of 12/31/02 (1/22/03)

Page #1:

Enclosed please find all of the supporting documents that we have prepared for the State EPA. We have been working on this project for over a year starting with our initial request on 1/3/2002 to Mr. Patrick Hogensen. Please read this letter which describes our operation and needs. The enclosed documents were not provided to the City of Des Plaines because we believe they are only required by the Stae EPA.

SWANC says we can take loads below 75% recyclable and they are correct. However, at the end of the day, if we take all 50% recycle loads we will not meet our 75% requirement. For every 50% load we bring in we need to bring a load of 100% recyclable which is very rare.

Page #2:

We are requesting a conditional permit. We want to be able to process construction and demolition waste and commercial loads of cardboard, wood, concrete, brick, asphalt, steel, palletts and dirt. We have no intention of handling waste from homes, cafeterias, restaurants and other putrid types waste. We also have no intention of selling our company or facility. We are a family run business. My brother and I have been in business for 21 years. Any changes to the permit would have to be approved by the village council.

Page#3:

Rick Anderson was at the public hearing and was available to answer any question. To my knowledge there is not a state requirement to have expert witness testimony.

✓ The facility will serve an area of approximately a 25-mile radius

The need for recycling is obvious. Would we as a society rather put material into a hole in the ground, or recycle it into useful products? The major goal of the Cook County Solid Waste Plan is to recycle as much as possible. Landfill diversion is the goal.

Page #4

Suffice it to say that there are no quarry pits nearby. Recycling concrete to gravel near by at Vulcan material is an economic advantage to the local area. If it were not economical I am sure Vulcan would not have any customers.

SWANC list 6 facilities that they say recycle construction debris. This is misinformation, Groot only recycles cardboard and pallets and does not sort construction loads. American wood only grinds pure wood and pure dry wall; Vulcan material only accepts pure brick or pure concrete. This means no paper, wood or cardboard allowed. We know this because, this is where we send our recycled material. All of the facilities listed do not sort loads, they only accept "clean" loads. We at DMS dump the loads and sort the material for shipment to the type of facility listed in their letter.

The nearest facility that provides similar services to DMS is located in Melrose Park, Il.

Our daily estimates of the recycled material are included in our operating information for the state.

This facility will process a maximum of 25 loads per day. This will vary depending on the type of material.

Page # 5

The location of the facility is perfect for a transfer station. The site is zoned industrial and is more than 800 feet from an area zoned residential. Your staff people have been to the site to evaluate the area.

We have included a drawing of the facility.

Enclosed are an aerial photograph and zoning map of the area showing the required 800 feet separation from land zoned residential.

City of Des Plaines Engineering has certified that this is not located in a 100-year flood plane (See letter of 3/1/02). OK

The design of the facility is described in the letter dated July 10 2002 to the state of Illinois.

Page #6

See letter of July 10, 2002

Page#7

See letter of July 10, 2002

Page#8

Criterion 6-. The traffic pattern requirements are overstated. Section 39.2 vi states "the traffic patterns to or from the facility are so designed to minimize the impact on existing roads" Our facility will increase truck traffic by approximately 1 truck per hour. This is hardly an impact in our area.

See letter of July 10, 2002.

.Page#9

See copy of "Amendments to Cook County Environmental control Ordinance"

Regulated recharge areas are rare in this area of the state as per Mr. Gary Cima of the State EPA. He has said this is reviewed by the agency when the permit is submitted.

Enclosed find copies of the 31 notices for the public hearing that were sent out in July of 2002

Summary:

We ask that you approve our request so we can begin recycling greater quantities of material after state approval,

→ From: Ruth Broder
To: Christine Wolski
Date: 1/23/03 8:59AM
Subject: Re: DMS Letter

Chris,

This looks very good. I would just suggest that we hold off on sending it because Joe Anderson is planning on coming by today to drop off the copy of the permit. He is also bringing other information that he compiled based on SWANCC's comments. We should look this over and delete from the letter anything that he will have already given us. He is OK with delaying the vote and willing to amend the application, but he does want to get this resolved as soon as possible. He is very willing to try and supply us with whatever information we ask for and will try to do so within a couple of weeks, max. Therefore, I think it would be a good idea to put an end date in the letter, (90 days from February 10 would be May 11), but we should shoot for the first council meeting in March for a vote.

Regarding the O'Hare expansion, he seems to think that his property will not be needed for several years, and that even if the airport acquires it, they will be able to lease it back from them for some time.

→ >>> Christine Wolski 01/22/03 05:26PM >>>

Ruth,

Please review second draft. I made the changes you had suggested. Thanks.

If it's fine, I will email it to Bill and ask him to sign it and mail it (since I won't have his signed copy).

By the way, should we specify a date to receive this information (i.e. calculate 90 days from the 180th day we have for replying back to him or 90 days from the Feb 3 Council agenda)? Do you want to be the contact person since you already have been so far?

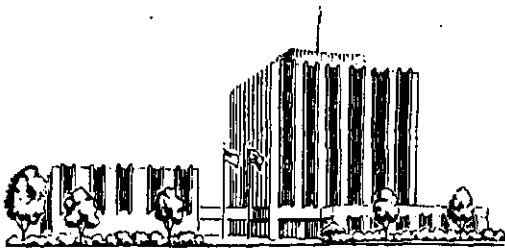
I will email you the council agenda letter tomorrow. Basically it is recommending the council to postpone a decision on this until further information is provided.

Thanks.

1/23/03
Never sent letter to
DMS - unnecessary.
DMS visited Ruth
@ CD w/ info.

EXHIBIT

5



CITY OF DES PLAINES

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

INTERNAL MEMORANDUM

DATE: January 24, 2003 REF. # 03035

TO: Ruth Broder
Community Development

FROM: Tim Oakley, P.E. *TOO*
City Engineer

REFERENCE: DMS Waste Transfer Station Application

I have reviewed the DMS application and the comments offered by SWANCC and KDPB. I agree that the application is seriously lacking pertinent information to qualify DMS as a waste transfer station.

The Engineering department has concerns with only two elements at this time:

1. (Criteria 6) The potential increase in traffic due to acceptance of more truck loads at the facility. If an estimated number of loads is provided by DMS, we can compare existing traffic volumes to projected volumes and determine if any improvements may be required such as intersection and/or roadway widenings, signalization adjustments, or upgrades to roadways and/or driveway entrances. It is noted that the facility is located in an industrial area and near sufficient truck routes. It is not likely that any additional truck volumes will impact sensitive areas like schools, residential neighborhoods, or parks.
2. (Criteria 7) The procedure for handling accidental spills and appropriate emergency response plan. A comprehensive emergency response plan should be submitted by DMS and should include evacuation routes. The Engineering department can review proposed road closures and detour routes that may be necessary in the event of an occurrence.

Please call me with any questions.

TPO/BLS/bls

RECEIVED

JAN 28 2003

Dept. of Community Development
City of Des Plaines



EXHIBIT

6

→
From: Christine Wolski
To: William Schneider
Date: 1/30/03 12:43PM
Subject: Re: DMS - permit

Bill,

Ruth has been the contact person for DMS. I passed my comments to her after I reviewed both the DMS application and SWANCC's comments. Afterwards, I believe she has met with them and spoken to them by phone. The only modification they needed to their application was additional information for the criterias to which they agreed.

This was supposed to be on the Feb 3 council agenda but when I had asked Ruth if this was necessary since DMS agreed to provide the additional information right away, she stated that we should not have to. If DMS could not provide the information in a timely manner, the council would be asked to postpone a decision until the information was provided. However, since DMS provided the information quickly, Ruth said she would go over it with my comments and see if what we needed was provided. We agreed that staff recommendation would be presented to council the 2nd meeting in Dec.

I will speak to Ruth in regards to the additional information DMS provided. (I have not seen what they had given her). We know what the decision will be but we need that extra information on file, especially when we reply to SWANCC. We'll talk w/ DMS.

Thanks.

→ >>> William Schneider 01/30/03 11:39AM >>>

Joe Anderson called me about this.....Can you two please coordinate a conference call with him for next steps. I have no idea what to do with this guy? Why would he have to amend his application? I thought he just responded to the SWANCC letter and now it is up to City Council?

Please advise which council meeting it will be on. After all, quite frankly, this guy is in the O'Hare Acquisition area and Chicago is sending him offer letters weekly to condemn him.....He will be out of business soon.

William Schneider, Jr.
City of Des Plaines
Asst. City Manager /
Economic Development Director
Phone: 847-391-5651
Fax: 847-391-5378

EXHIBIT

7

→ From: William Schneider
To: Allegro5:"brooke@swancc.org"@Allegro5.hub 05
Date: 1/30/03 3:36PM
Subject: Re: DMS transfer station

I think we are shooting for the March 3rd meeting - you can call our City Clerk's Office at 847-391-5310 for follow up

William Schneider, Jr.
City of Des Plaines
Asst. City Manager /
Economic Development Director
Phone: 847-391-5651
Fax: 847-391-5378

→ >>> "Brooke Beal" <brooke@swancc.org> 01/30/03 02:57PM >>>
Bill:

When will the City Council formally consider the DMS transfer station application for siting approval? Thanks for your help.

Brooke

C. Brooke Beal
Executive Director
SWANCC
brooke@swancc.org
847-296-9205 voice
847-296-9207 fax

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CC: Christine Wolski; Nancy Peterson; Ruth Broder

EXHIBIT

8

→ From: Ruth Broder
To: Christine Wolski
Date: 2/4/03 10:43AM
Subject: Re: DMS Application

Chris,

I do have copies of all DMS' notices. Didn't see any reason to send them over to you, though you are welcome to look at them if you want to.

I basically agree with you on the application. Would you mind writing DMS a letter to request that they supply an emergency response plan? This seems to be everyone's primary concern. As for the O'Hare expansion, I think it is mainly DMS' problem; if they want to proceed, it is primarily going to affect them if they end up getting bought out. They are aware that our approval is only for this particular site.

As to the schedule, I had thought it was on the agenda for February 18. I'm not sure why it has been changed, unless the agenda was simply too full and Donna decided to move it. I'll check and get back to you.

Thank you again for all your help with this project,

Ruth

→ >>> Christine Wolski 02/04/03 10:36AM >>>
Ruth,

I know we have spoken and are on the same thinking path for this application but I wanted to get in touch with you on the additional information you sent over to me (by the way, thanks!).

I have reviewed the additional information that DMS provided to you. DMS must understand that the reason we requested this information is to satisfy the City's concerns and SWANCC's concerns for the facility.

Even though DMS gave us information on emergencies, it does not seem to satisfy emergency response to accidental spills or sudden asbestos loads. (I agreed with you on this before.) Perhaps Mr. Anderson can supply the City with a plan. He can refer to the emergency plan he provided for the IEPA that he should have attached with his original application for the recycling facility. My other concern is that his property is in the O'Hare expansion plan. I think you mentioned that he seemed unsure but I would recommend that he speak with someone in this expansion plan to confirm if his property is one that will be bought or spared. If it will be bought, he should find out what length of time he has on this property for his own knowledge.

The IEPA inspection gave better insight to DMS. According to their recent inspection, DMS appeared to be complying with the required State regulations. This is positive (it seems their recordkeeping is well organized too).

The floodplain letter by DP Engineering is fine. The list of disposal locations is fine. The July 10, 2002 letter gives us details on facility description, tagging & record keeping, traffic, personnel, dust control, clean up, closure, run off, etc--this is good. It true that the Cook County plan is to reduce waste and recycle. I'm assuming you have the copies he mentions he provided of the 31 notices for the public hearing.

Based on the additional information, I feel that DMS is sincere about doing this and that they will hold to their application. I would recommend an approval for a conditional/restricted permit (not allowing any

EXHIBIT

other material besides what is stated in the application--once they provide an emergency response plan. They are trying to be environmentally supportive and are simply trying to expand on their recycling load intakes by converting the current facility into a transfer facility.

The deadline for the Feb 18th Council is this Friday--02/07. Perhaps we can get on this agenda rather than March 3? That way DMS does not have to wait another few weeks.

Please let me know what your comments are on the application. If there are any other questions, please let me know. Christine.

From: Ruth Broder
To: Christine Wolski
Date: 2/6/03 10:41AM
Subject: Re: IEPA info on DMS

Hi, Chris:

Sorry I wasn't able to respond to you yesterday. I was on jury duty.

I think a phone call would be fine, especially since Donna McAllister has informed me that the case IS on the February 18 agenda. This also means that by tomorrow, we need to give Donna (and Bill) a memo for the Council. I don't think it has to be that complex - just summarize the criteria, and our response with a general recommendation - I think we are agreed that it should be tentatively in favor pending their emergency response plan. The information you got from IEPA is very helpful here.

Joe Anderson/DMS phone # is (847) 390-0300. Another number is (847) 375-9626. Do you mind doing the memo? If it is going to be any problem, let me know and I'll ask Donna to reschedule to the March 3.

Thanks,

Ruth

>>> Christine Wolski 02/04/03 04:31PM >>>

Ruth,

I spoke with Donna Czech from IEPA in regards to DMS.

Donna informed me that DMS is a facility that is 'permit exempt.' This means, obviously, that they are not working under a granted permit from IEPA. The facility is working under the 'IEPA ACT' so to speak. Donna explained to me that if the facility meets all the requirements in the IEPA ACT Section 22.38 (Facilities accepting exclusively general construction or demolition debris for transfer, storage, or treatment) then a permit is not necessary for them to operate. If, however, they do not meet all 11 requirements, or not comply with them, then the facility needs to apply for a permit. She stated that they are a small facility and have everything labeled and organized. Since they want to accept more (which they will not be able to comply with the requirements in the ACT), they will need to get a permit from IEPA but need our approval first (we knew this).

Since I initially called to see if I can get a copy of their permit and possibly emergency plan, but then found out there is no permit, I inquired if the IEPA questioned an emergency response plan. (According to the 11 requirements, there is no mention of emergency plan). She stated that they should first know what is coming into the site. Even then, she stated that before the load gets dumped, they inspect it to see what it is, then sort it. If it is unacceptable, they get it off site. I told her I was looking for even training, i.e. asbestos training or what if a fuel hose breaks, etc. I don't think this was checked into.

Since Criteria 7 states, 'if the facility will be treating, storing or disposing of hazardous waste....' and DMS stated that they are not, I still think we should at least get a little emergency response plan. I have a feeling SWANCC will be on this. I know you wanted me to write them but do you think I should call them instead? It may be faster service.

Chris

EXHIBIT

10

From: Ruth Broder
To: Allegro5:"brooke@swancc.org"@Allegro5.hub 05; William Schneider
Date: 2/6/03 1:43PM
Subject: Re: DMS transfer station

Thanks.

→ >>> William Schneider 02/06/03 01:33PM >>>

OK - also, I spoke to the County environmental department on other issues and they said that they would send a letter in support of the permit to offset SWANCC's opposition - Christine can call Ray Akers whom I think you spoke to already

William Schneider, Jr.
City of Des Plaines
Asst. City Manager /
Economic Development Director
Phone: 847-391-5651
Fax: 847-391-5378

→ >>> Ruth Broder 02/06/03 10:42AM >>>

Actually Donna has told me that it is Feb. 18, but we may need to reschedule to March 3, if we don't have time to prepare a memo to Council. We are still waiting for one piece of information from DMS.

>>> William Schneider 01/30/03 03:36PM >>>

I think we are shooting for the March 3rd meeting - you can call our City Clerk's Office at 847-391-5310 for follow up

William Schneider, Jr.
City of Des Plaines
Asst. City Manager /
Economic Development Director
Phone: 847-391-5651
Fax: 847-391-5378

>>> "Brooke Beal" <brooke@swancc.org> 01/30/03 02:57PM >>>

Bill:

When will the City Council formally consider the DMS transfer station application for siting approval? Thanks for your help.

Brooke

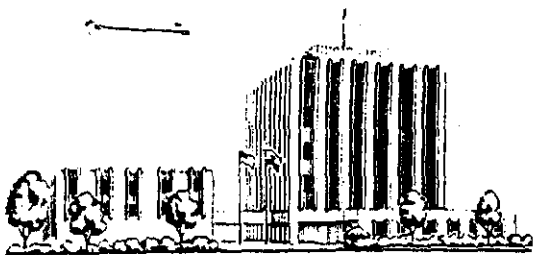
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Executive Director
SWANCC
brooke@swancc.org
847-296-9205 voice
847-296-9207 fax

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11



DEPARTMENT OF PUBLIC WORKS

CITY OF DES PLAINES

1111 Joseph J Schwab Road ■ Des Plaines, Illinois 60016 ■ (847) 391-5464 ■ FAX (847) 297-6801

DATE: February 6, 2003

TO: Donna McAllister
City Clerk

Cc: William Schneider
Acting City Manager

FROM: Christine Wolski 
Keep Des Plaines Beautiful Coordinator

RE: Item for February 18, 2003 City Council Committee Agenda
Disposal Management Systems Application

Disposal Management Systems (DMS), 103 Sell Road, Des Plaines, Illinois is a facility that recycles construction and demolition debris (pallets, wood, concrete, cardboard, bricks, asphalt, steel, aluminum, and clean dirt/gravel/sand). DMS would like to apply for a transfer station permit from the Illinois Environmental Protection Agency (IEPA). However, by process, DMS must obtain approval of the municipality in which they are located before seeking approval from the IEPA.

A public hearing had been held on December 2, 2002 in the City Council Chambers. Written comments had been accepted for a period of thirty days after the hearing. The Solid Waste Agency of Northern Cook County (SWANCC) had been the only organization that had comments regarding the application. The Community Development Department, Public Works Department-KDPB, and Engineering Department had completed a review of the application and SWANCC comments. IEPA had also been contacted for additional information on the facility.

DMS operates a 2,000 square foot recycling facility that recycles 30 tons of recycled material per day. Recyclable materials are sorted at the facility and taken off site to designated recycling facilities. DMS has been operating for 2 years and accepts loads that only have 75% recyclable material in order to meet IEPA requirements. Other loads, loads that contain only 50% recyclable material, are rejected. DMS would like to accept the 50% loads instead of sending them to the landfill. In order for DMS to accept these loads, they need to obtain a transfer station permit from the IEPA.



EXHIBIT

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DMS is diverting construction debris from the landfill, which makes up about 25-45% of the waste stream. It currently serves a 25-mile radius area. The facility is located in an industrial zone, is more than 800 feet from a residential area, and is not located in a 100-year flood plane. The impact on traffic would be minimal, only increasing truck traffic by 1 truck per hour. Water sprays are used to control dust, site is fenced for safety and to prevent litter from flying off site, and the building contains a 2400-gallon containment dike to prevent any discharge of materials, if any. No hazardous material is accepted or stored.

DMS has been in compliance with IEPA regulations and has conducted their establishment in an organized and proficient manner. The facility has demonstrated the ability to meet the nine criteria necessary in the IEPA Act. They have supplied the City with proper documents and information. The facility is environmentally supportive and is promoting a beneficial program that is helping the environment and the communities.

The Community Development Department and KDPB recommends the Council to approve the construction and demolition transfer station application for Disposal Management Services, 103 Sell Road, Des Plaines, Illinois.

Cc: Matt Dusckett, PW Director
Ruth Broder, Community Development Coordinator

DISPOSAL MANAGEMENT SYSTEMS, INC.*Recycling For The Future*

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Fax: 847-375-9635

February 12, 2003

Ruth Broder

City of DesPlaines

1420 Miner

DesPlaines, Illinois 60016-4498

Re: Transfer Station Hearing

Dear Ms. Broder:

We would like to respond to your concerns of asbestos entering our facility and of oil leaks from the equipment.

We share your concern of asbestos entering our recycling facility. We want to protect our employees and the environment. To minimize this risk we deal with reputable contractors, who are responsible for asbestos abatement at the job site if needed. By law they are required to evaluate and remediate the site prior to any demolition. If by chance any asbestos or unusual waste is identified at our facility, the employees working on the sorting floor are to leave the area and inform their supervisor immediately. The supervisor notifies the operation manager if further investigation is required. Ultimately if there is a valid situation that needs further attention Rick Anderson or myself will be notified. We would then isolate the material in the building and take whatever steps are needed to remedy the situation in a safe and environmentally safe manner. In the case of asbestos, we would spray water on the material and call an asbestos contractor for proper handling and disposal.

Ms. Broder I would like to also state that the vast majority of the recycled material we process is from new construction, which is free from asbestos, which is no longer used in building materials.

Management of oil spills is an ongoing program at DMS. We begin by inspecting hydraulic hoses on our vehicles to prevent leakage at our facilities

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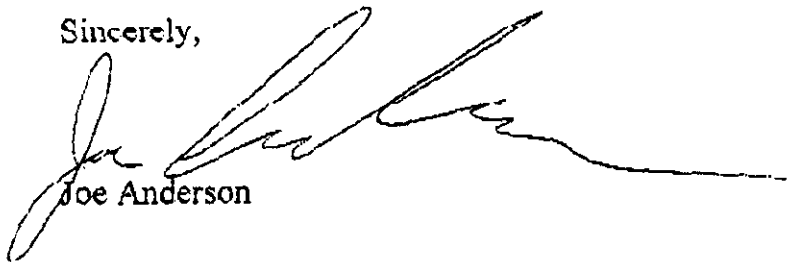
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and at our customer's facilities. If we do have a leak of any fluids our employees immediately use the available absorbent to remediate the spill. The maximum potential spill volume at our facility is 50 gallons. We do not have any bulk storage of material. To eliminate large spills, the largest liquid container that we purchase hydrocarbon material in is 5 gallons. To be extra safe, we collect all storm water from our facility and send it through an oil/water separator.

If you have any other questions regarding our facility please call me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Anderson', with a long horizontal flourish extending to the right.

Joe Anderson

From: William Schneider
To: Christine Wolski; Ruth Broder
Date: 2/18/03 1:38PM
Subject: Re: DMS at council

I assume Christine is doing this presentation? please confirm

William Schneider, Jr.
City of Des Plaines
Asst. City Manager /
Economic Development Director
Phone: 847-391-5651
Fax: 847-391-5378

→ >>> Ruth Broder 02/18/03 10:39AM >>>

I will call him today. He did not really send an emergency response plan, per se, but did send a brief letter, dated February 12, outlining the steps that would be taken in case of an emergency. You are welcome to have a copy of it. (I'll leave one with Mary just in case I'm not here). I will not be at the council meeting, but Bill will and is familiar with the whole case.

Ruth

→ >>> Christine Wolski 02/18/03 09:15AM >>>

Hi Ruth!

Can you call Mr. Anderson to confirm his presence at the council meeting (or his representative)? Did he mail you an emergency response plan? I'll be in City Hall this afternoon-can I get a copy of it?

Also, will you be present at the Council meeting for this?

Thanks.
Chris

EXHIBIT

14

→ From: "Brooke Beal" <brooke@swancc.org>
To: "William Schneider" <WSchneid@desplaines.org>
Date: 2/18/03 1:10PM
Subject: dms transfer station

Bill:

I saw on that the DMS transfer station is on tonight's meeting agenda. Is there any information that was sent to the City Council that is public information? If there is, can I get a copy prior to the meeting? Thanks for you assistance.

Brooke

C. Brooke Beal
Executive Director
SWANCC
brooke@swancc.org
847-296-9205 voice
847-296-9207 fax

This inbound E-Mail message was scanned by Allegro MailWatch.

+-----+
+ ** C O N F I D E N T I A L I T Y N O T E ** +
+-----+
+ This E-Mail transmission contains information for the City of Des Plaines, +
+ which is confidential or privileged. The information is intended to be for +
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+ recipient, be aware that any disclosure, copying, distribution or use of the +
+ contents of this information is prohibited. If you have received this E-Mail +
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+-----+

EXHIBIT

15

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.

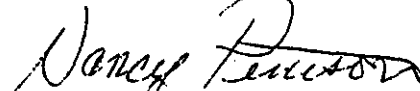
I further certify that the attached and foregoing copy of City Council Meeting Minutes - Feb. 18, 2003 is a true and correct copy of the records of the City of Des Plaines.

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

16

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

Brentwood Elementary School

Central Elementary School

Chippewa Middle School

Cumberland Elementary School

Iroquois Community School

North Elementary School

Orchard Place Elem. School

Our Lady of Destiny 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	T. Grace 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.

DM

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"

MM

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 2-12-01 and amended by Ordinance 2-2-02 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

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. Leclaire 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.

Resolution
R-23-03

LOCKBOX BANK
ACCT. AGREE./
OAK BROOK
BANK:
Consent
Agenda

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. 16th 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

Resolution
R-24-03

LIQ. 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.

DI

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.

DM

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.

11

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 SESSIONORDINANCE
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.

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 1, "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

From: William Schneider
To: Christine Wolski; Nancy Peterson; Ruth Broder
Date: 2/23/03 10:13PM
Subject: Re: DMS Application

The letter would come from me as Zoning Administrator (with ruth's help)

NANCY PETERSON - Please get Ruth a certified copy of the minutes and motion from the meeting in regards to the DMS item that was on the agenda Feb 18th

William Schneider, Jr.
City of Des Plaines
Asst. City Manager /
Economic Development Director
Phone: 847-391-5651
Fax: 847-391-5378

→ >>> Christine Wolski 02/20/03 10:18AM >>>

Ruth,

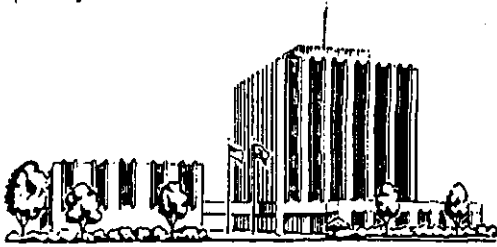
A letter needs to be sent to DMS stating that they have the city's approval and may go forth to apply for an IEPA transfer station permit. Who will be writing this--CD or PW? It will need to be signed by Bill.

Please let me know.

Thanks. Christine.

EXHIBIT

17



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.

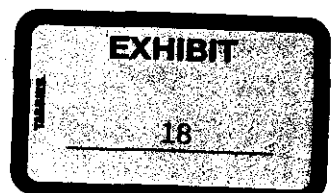
Attached is a certified copy of the minutes of the February 18, 2003 meeting of the Des Plaines City Council at which the City Council voted to approve the transfer station application (page 7). Also attached is a copy of the Certification of Siting Approval (LPC-PA8), signed by Mayor Anthony W. Arredia 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.



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.**

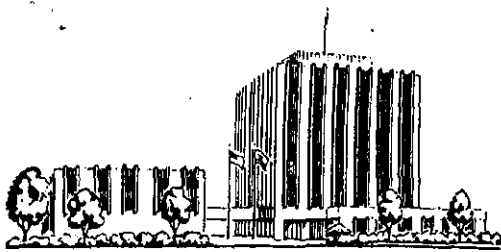
The following correspondence is attached:

- 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.



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.



EXHIBIT

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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 black ink, appearing to read "Wm. Schneider". The signature is fluid and cursive, with a large initial "W" and a stylized "S".

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

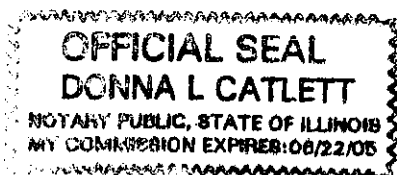
CERTIFICATION OF SITING APPROVAL (LPC-PA8)

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



NAME: [Signature]

TITLE: MAYOR

ATTEST:

Nancy Pearson
Deputy City Clerk

SUBSCRIBED AND SWORN TO BEFORE ME
this 25th day of March, 2003

Donna L Catlett
Notary Public

jah\002892p.doc

IL 532 1429
LPC 218 Rev. Apr. 96

GEORGE H. RYAN, GOVERNOR

PRINTED ON RECYCLED PAPER

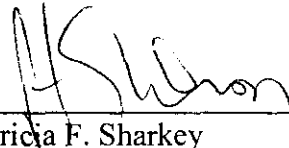
This Agency is authorized to require this information under Illinois Revised Statutes, 1979, Chapter 111 ½, Section 1039. Disclosure of this information is required under that Section. Failure to do so may prevent this form from being processed and could result in your application being denied. This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

PROOF OF SERVICE

Patricia F. Sharkey, an attorney, hereby certifies that she served a copy of the foregoing **NOTICE OF FILING** and **RESPONSE TO CITY'S MOTION IN OPPOSITION TO SWANCC'S MOTION FOR RECONSIDERATION** on the persons listed below by UPS Overnight Delivery, on May 29, 2003.

David R. Wiltse
City Attorney
1420 Miner Street
Des Plaines, IL 60016

Joe Anderson
Disposal Management Systems, Inc.
420 Cutters Mill Lane
Schaumburg, IL 60195

A handwritten signature in black ink, appearing to read 'P. Sharkey', is written over a horizontal line.

Patricia F. Sharkey