

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

MAY 01 2003

SOLID WASTE AGENCY OF NORTHERN
COOK COUNTY,

Petitioner,

vs.

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

Respondent.

STATE OF ILLINOIS
Pollution Control Board

No. PCB 03-161

(Pollution Control Facility
Siting Facility)

NOTICE OF FILING

TO: See Attached Proof of Service

PLEASE TAKE NOTICE that on May 1, 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 **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

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(Pollution Control Facility
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MOTION FOR RECONSIDERATION

Petitioner Solid Waste Agency of Northern Cook County ("SWANCC") by Mayer, Brown, Rowe & Maw, its attorneys, and pursuant to 35 Ill. Admin. Code 101.520, respectfully moves the Board to reconsider its April 17, 2003 Final Order which denied SWANCC's Motion for Leave to File Amended Petition and dismissed this action. This motion is filed in connection with and in the alternative to a new Petition for hearing which was filed on April 29, 2003 and has been docketed as PCB 03-210. SWANCC asks that the Board reconsider and reverse its order as to the deadline for appeal of the City's action and either find that the Amended Petition filed with a Motion for Leave to File on April 2, 2003 was timely, or in the alternative, find that the new Petition filed in PCB 03-210 on April 29, 2003 is timely.

In support thereof, Petitioner states as follows:

1. SWANCC received the Board's April 17, 2003 Order in this matter on April 24, 2003. Thus, this motion is timely under Section 101.520. A copy of the Board's Order is attached as Exhibit 1 hereto.
2. The documents filed herewith demonstrate that both SWANCC's Amended Petition, filed April 2, 2002, and the new Petition, filed on April 29, 2003, were both timely

because the City of Des Plaines did not render an “official written decision” until March 26, 2003. (See March 26, 2003 letter from the City of Des Plaines to Disposal Management Systems, Inc. Exhibit 2 hereto.) Both of SWANCC's Petitions were filed within the 35 day appeal period following the March 26, 2003 written decision.

3. The Board's April 17, 2003 Order, in pertinent part, stated:

“Here, Des Plaines approved siting of the DMS facility, without conditions, on February 18, 2003. Pet. Exhibit 3, at 7. The 35-day period in which to file a petition for review expired on March 25, 2003. Because SWANCC failed to timely name DMS, the siting applicant, as a respondent within the 35-day deadline for filing a sufficient appeal, SWANCC's petition fails to meet the Board's content requirements. Accordingly, the Board lacks jurisdiction to hear this appeal....”

4. The Board's Order was based on an erroneous assumption of either fact or law. The Board's order was based either on the assumption that the voice vote approval in the City Council triggered the 35-day appeal period or on the assumption that the City issued an “official written decision” on February 18, 2003. Neither of these assumptions are true.

5. The Board's rules are clear that a local siting body's “action” for purposes of the 35-day appeal period is the date of its “official written decision.” Section 107.304 of the Board's procedural rules governing petitions to review pollution control facility siting decisions, 35 Ill. Admin. Code 107.204, states:

“A petition for review must be filed within 35 days after the local siting authority's action to approve or disapprove siting. *Action means the local government's official written decision granting or denying local siting approval.*” [emphasis added]

6. This rule is clear on its face. It is also supported by a significant body of Illinois case law. In WMI v. IPCB, 201 Ill. App. 3d 614, 558 NE2d 1295 (Ill. App. 1 Dist. 1990), the Illinois Appellate Court found that where the Board had issued an order within its statutory

decision deadline, but had not issued its opinion, it was the opinion that was the "final action" which was reviewable by the Court. The Appellate court reasoned that the earlier issued order circumvented the applicant's right to review of an administrative order since a court would not have the information necessary for a complete and fair review of the decision at the time of the agency action. On appeal to the Illinois Supreme Court, WMI v. PCB, 145 Ill. 2d 345, 585 NE2d 606 (Ill. S.Ct. 1992), the Supreme Court found that "final action" for purposes of meeting a deadline for administration action could occur without written findings, but also stated "we do not necessarily conclude that [such action] was final and appealable for purposes of review." The Supreme Court based this distinction on the well established doctrine that a decision by an administrative agency must contain findings to make possible judicial review. Reinhardt v. Board of Education of Alton, 61 Ill. 2d 101, 329 NE2d 219 (Ill. S.Ct. 1965) (Where there are no findings, there can be no judging whether a ground relied upon was constitutionally proper); Also see SEC v. Chenery Corp., 318 U.S. 80, 94, 63 S.Ct. 454, 462 (1943) (The orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained.). The Board's procedural rule, Section 107.204, which identifies the "official written decision" as the trigger for the 35 day appeal period is consistent with this established administrative law doctrine.

7. In addition to the Board's procedural rules, Section 39.2 (e) of the Environmental Protection Act makes it clear that local siting body decisions must be in writing. It states:

"Decisions of the County Board or governing body of the municipality are to be in writing, specifying the reasons for the decision, such reasons to be in conformance with subsection (a) of this Section."

Section 39.2(e) also authorizes local siting bodies to condition their approvals and requires local siting bodies to make their decisions available for public inspection and copying.

In sum, the final, appealable decision of the local siting body must be in writing, must specify reasons for the decision, must contain any conditions of approval and must be available for public review.

8. In this case, the City did not issue a written decision stating its approval and addressing the Section 39.2 criteria or containing the conditions on its approval until its letter of March 26, 2003 to DMS. This is the only document which states that the City finds that DMS has met the criteria under Section 39.2. It is also the only document stating the conditions on which the City's approval is stated to be "contingent." See attached Affidavit. (Exhibit 3 hereto). As such, it is the only document that can be deemed to be an "official written decision" of the City.

9. The City itself indicated that the March 26, 2003 letter is its "official written decision." In response to an FOIA by SWANCC requesting the City's "final written decision," the City included a memorandum dated March 21, 2003, Exhibit 4 hereto, stating:

"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 also be sent to SWANCC."¹

Although two other documents – the minutes of the City Council meeting and an LPC-PA8 Certification Form – were described in the March 21, 2003 Memorandum, only the anticipated letter of the week of March 24, 2003 (ultimately dated March 26, 2003) qualifies as a "written decision" under Section 39.2. The minutes of the City Council meeting reflect the Council's voice vote, but the minutes do not specify the reasons for the decision or reflect the conditions on which the approval was made contingent. (The minutes are attached as Exhibit 5

¹ The March 21, 2001 memorandum was included in and explicitly referenced in SWANCC's original petition and Amended Petition.

hereto.) Furthermore, the Board has previously held that the minutes of a meeting reflecting a voice vote cannot be considered a "written decision" within the meaning of Section 39.2. SPILL et al. v. City of Madison, PCB 96-91 (Dec. 20, 1995). Neither can the LPC-PA8 certification form, which was originally executed on March 3, 2003 and then re-executed on March 25, 2003, be considered the City's "official written decision." Although a written instrument, the LPC-PA8 form did not include any "reasons" supporting the City's decision nor did it include any of the conditions the City imposed on its approval. (Both LPC-PA8 Forms are attached hereto as Exhibits 6 and 7 respectively.)

10. As stated above, an approval cannot be considered to contain reviewable or appealable findings until such time as the reasons for the decision and any conditions of approval are articulated in writing. Due process requires notification of the factual and legal conclusions which form the basis of an approval in a timely manner to allow for judicial review. On a very practical basis, neither the affected public nor the affected applicant can judge the nature and effect of the approval to determine whether they need to appeal before a written decision with all applicable conditions and findings is issued and made available for public review.

11. The City's March 26, 2003 letter states that the City has approved the siting, references satisfaction of the Section 39.2 criteria and states that the City's approval is "contingent" on DMS's compliance with five conditions (which are articulated for the first time in that letter).² Whether the City's written decision is sufficient to support its action is not the question before the Board today. Rather, what is critical for purposes of calculating the time for appeal is the fact that the City issued a "written decision," has stated that its approval is

² The conditions stated in the March 26, 2003 letter cannot be deemed to have been issued under some separate City authority. The only authority the City has to condition siting approval is that provided in Section 39.2, as local zoning and land use restrictions are preempted by Section 39.2. See Section 39.2 (g) of the Act, 415 ILCS 5/39.2(g).

"contingent" on five conditions, and that the written decision reflecting these conditions was not issued until March 26, 2003. As such, both the Amended Petition filed on April 2, 2003 and the new Petition filed on April 29, 2003 were both timely filed.

WHEREFORE, SWANCC respectfully requests that the Board reconsider and reverse its April 17, 2003 Order, find that the 35 day appeal period was triggered by the City's March 26, 2003 "official written decision," and either accept the April 2, 2003 Amended Petition for hearing or, in the alternative, accept for hearing SWANCC'S April 29, 2003 Petition in the matter PCB 03-210.

Dated: May 1, 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

ILLINOIS POLLUTION CONTROL BOARD

April 17, 2003

SOLID WASTE AGENCY OF NORTHERN)	
COOK COUNTY,)	
)	
Petitioner,)	
)	PCB 03-161
v.)	(Pollution Control Facility
)	Siting Appeal)
CITY OF DES PLAINES, ILLINOIS,)	
)	
Respondent.)	

ORDER OF THE BOARD (by N.J. Melas):

On March 24, 2003, Solid Waste Agency of Northern Cook County (SWANCC) timely filed a petition asking the Board to review a February 18, 2003 decision of the City of Des Plaines (Des Plaines). See 415 ILCS 5/40.1(a) (2002); 35 Ill. Adm. Code 107.204. Des Plaines approved Disposal Management System's application to site a 200 ft. by 200 ft. waste transfer facility at 101-103 Sell Road in the City of Des Plaines. On April 2, 2003, SWANCC filed a motion for leave to file an amended complaint adding Disposal Management System (DMS) as a respondent. On April 16, 2003, Des Plaines filed a motion to dismiss and to oppose SWANCC's motion for leave. Also on April 16, 2003, DMS filed a comment in support of Des Plaines motion to dismiss.

Section 40.1(a) of the Environmental Protection Act (Act) (415 ILCS 5/40.1(a) (2002)) authorizes SWANCC's appeal to the Board as a third party under Section 107.200(b) of the Board's rules. 35 Ill. Adm. Code 107.200(b). Section 40.1(b) of the Act and Section 107.202(a)(2) of the Board rules, however, require that a petition for review name the siting applicant as a respondent. 415 ILCS 5/40.1(b); 35 Ill. Adm. Code 107.202(a)(2). Here, DMS is the siting applicant, yet DMS was not named as a respondent in SWANCC's original petition.

The Act and Board rules also require a petition for review to be filed within 35 days after the local siting authority's action to approve or deny siting. 415 ILCS 5/40.2(a); 35 Ill. Adm. Code 107.204. Additionally, the Board on its own motion may dismiss any petition that is untimely filed or does not name all necessary parties. 35 Ill. Adm. Code 107.502.

Here, Des Plaines approved siting of the DMS facility, without conditions, on February 18, 2003. Pet. Exhibit 3, at 7. The 35-day period in which to file a petition for review expired on March 25, 2003. Because SWANCC failed to timely name DMS, the siting applicant, as a respondent within the 35-day deadline for filing a sufficient appeal, SWANCC's petition fails to meet the Board's content requirements. Accordingly, the Board lacks jurisdiction to hear this appeal. Bevis v. Wayne County Board, PCB 95-128 (May 18, 1995), *aff'd sub nom. Bevis v. PCB*, 289 Ill. App. 3d 432; 681 N.E.2d 1096 (5th Dist. 1997); *see also* ESG Watts, Inc. v. PCB,

EXHIBIT

1

191 Ill. 2d 26, 727 N.E.2d 1022 (2000) (failure of a party seeking administrative review to name all statutorily required parties is a fatal omission).

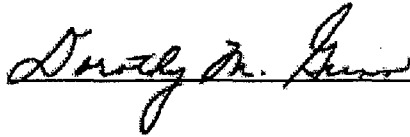
Because the Board lacks jurisdiction over this proceeding based on the face of SWANCC's petition, the Board denies Des Plaines' motion to dismiss as moot.

Accordingly, the Board denies SWANCC's motion for leave to amend, denies Des Plaines' motion to dismiss, dismisses this action, and closes the docket.

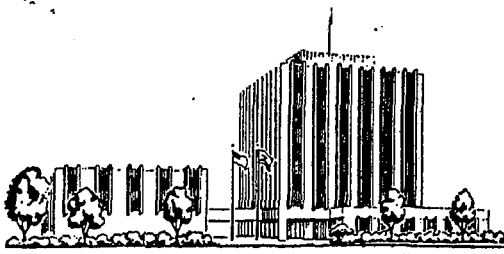
IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 17, 2003, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in dark ink.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board



CITY OF DES PLAINES

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

March 26, 2003

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

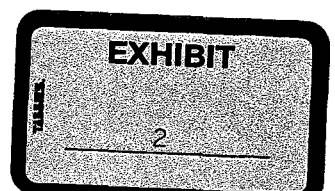
Dear Mr. Anderson:

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

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

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

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



Disposal Management Systems, Inc.
Page 2

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

Sincerely,

A handwritten signature in black ink that reads "Wm. Schneider, Jr." with a stylized flourish at the end.

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, ~~XX2003~~ 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:

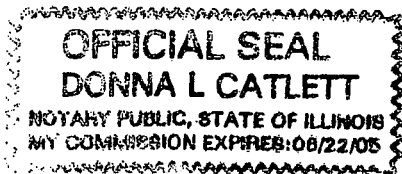
waste storage (___), landfill (___), waste disposal (___), waste transfer station (X)
waste treatment (___), waste incinerator (___).

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 Drwg.

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

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

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



NAME: [Signature]

TITLE: MAYOR

ATTEST:

[Signature]
Deputy City Clerk

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

[Signature]
Notary Public

jah\002892p.doc

IL 532 1429
LIC 218 Rev. Apr. '96

GEORGE H. RYAN, GOVERNOR

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.

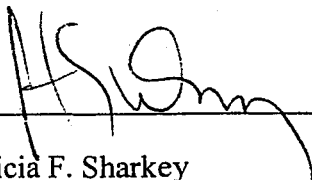
County of Cook)
State of Illinois)

AFFIDAVIT

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

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

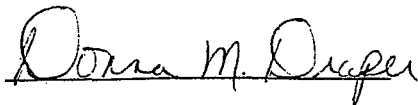
Further affiant sayeth not.



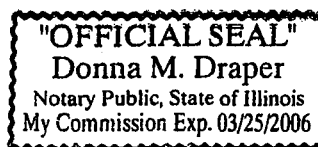
Patricia F. Sharkey
Mayer, Brown, rowe & Maw
190 South LaSalle Street
Chicago, Illinois 60603

Signed and sworn before me

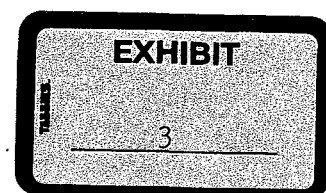
this 29th Day of April, 2003.

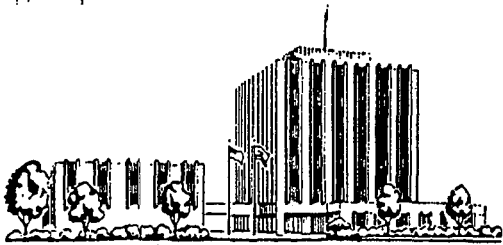


Notary Public



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CITY OF DES PLAINES

1 420 Miner / Northwest Highway ■ Des Plaines, Illinois 60016-4498 ■ (847) 391-5300

March 21, 2003

MEMORANDUM

TO: Nancy Peterson

FROM: Ruth Broder

SUBJECT: FOI #03-069

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

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

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

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

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

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

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



EXHIBIT

4

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.

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.

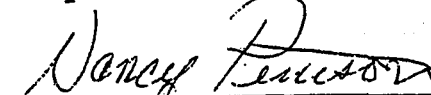
I further certify that the attached and foregoing copy of City Council Meeting Minutes - Feb. 18, 2003 is a true and correct copy of the records of the City of Des Plaines.

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

5

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 Duscsett, 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

Friendship Jr. High School
Immanuel Lutheran School

St. Mary's Elem. School
Tracy 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.

DW

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 SIGN IN THE WESTBOUND LANE OF PERRY STREET. Motion declared carried as approved unanimously under Consent Agenda.

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

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

Resolution
R-22-03

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

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

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

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

Consent
Agenda

Resolution
R-23-03

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

LOCKBOX BANK
ACCT. AGREE./
OAK BROOK
BANK:

Consent
Agenda

Resolution
R-24-03

Moved by Murphy, seconded by Sayad, to concur with Staff recommendation that City Clerk be authorized to execute "Corporate Authorization Resolution" with Oak Brook Bank, 1400 W. 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

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

Consent
Agenda

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

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.

HEALTH INS.
(Cont'd.)

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

WARRANT
REGISTER:

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

PUBLIC SAFETY - Alderman Beauvais, Chair

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

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

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

Alderman Sayad stated that he agrees with Option B.

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

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

PUBLIC WORKS - Alderman Brookman, Chair

✓ TRANSFER
STATION
PERMIT/
101-103 SELL:

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

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

COMMUNITY DEVELOPMENT - Alderman Becker, Chair

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

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

DM

HILLS AVE.
(Cont'd.)

--construction of the proposed retail use must begin within one year of City Council approval or the zoning classification will revert to R-1 Single-Family Residential District;

--petitioner must submit a fully dimensioned and detailed site plan and separate landscape plan for Staff review, comment and approval, before applying for a building permit;

--there be no access to Hills Avenue;

--a landscape buffer be constructed along the entire Hills Street frontage consisting of a 6-8 foot high opaque wall built of face brick and/or other approved material; the wall shall be set back 5-10 feet from the petitioner's property line along Hills Avenue and contain trees, shrubs and grass and/or plant ground cover.

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

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

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

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

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

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

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

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

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

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

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

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

HILLS AVE.
(Cont'd.)

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

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

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

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

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

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

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

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

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

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

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

ANNEXATION
AGREEMENT/
9661 GOLF:

Resolution
R-26-03

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

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

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

WARRANT
REGISTER:

Resolution
R-25-03

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

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

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

DM

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

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.

Ordinance
M-12-03

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

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

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

TRANSFER
STATION
PERMIT/
101-103 SELL:

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

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

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

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

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

BID DATE/
EMERG. VEH.
PRIORITY
SYSTEMS:

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

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

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

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

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

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

AJOURNMENT:

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



Donna McAllister, MMC - CITY CLERK

APPROVED BY ME THIS _____

DAY OF _____, 2003

Anthony W. Arredia, MAYOR

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. Recycling Center

Site Information:

Nearest City: Des Plaines, IL County: Cook

1. On 2/18, ²⁰⁰³~~19~~, the City of Des Plaines of
(governing body of county or municipality)

Cook County
(county or municipality)

approved the site location suitability of Disposal Management Systems
(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)

Des Plaines

(county or municipality)

to execute this certification on behalf of Des Plaines

(county or municipality)

NAME:

[Signature]

TITLE:

MAYOR

ATTEST:

[Signature]

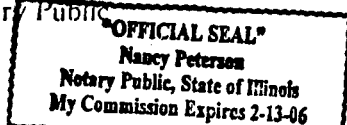
CITY CLERK

SUBSCRIBED AND SWORN TO BEFORE ME

this 3RD day of March, 19-2003

[Signature]

Notary Public



jah002892p.doc

IL 532 1429
LIC 218 Rev. Apr. 96

GEORGE H. RYAN, GOVERNOR

This Agency is authorized to require this information under Ill. Revised Statutes, 1970, Chapter 111 ½, Section 1039.2. Disclosure of this information may prevent the your application from being managed.

EXHIBIT



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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

RENEE CIPRIANO, DIRECTOR

CERTIFICATION OF SITNG 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, ~~2003~~ 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 Drwg.

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

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

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



NAME: [Signature]

TITLE: MAYOR

ATTEST:

[Signature]
Deputy City Clerk

SUBSCRIBED AND SWORN TO BEFORE ME

this 25th day of March, 2003

[Signature]

Notary Public

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IL 532 1429
LIC 218 Rev. Apr. 96

GEORGE H. RYAN, GOVERNOR

PRINTED ON RECYCLED PAPER

This Agency is and
Revised Statutes, 1
of this information
may prevent this fi
your application be
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EXHIBIT

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PROOF OF SERVICE

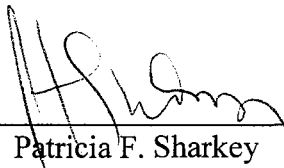
Patricia F. Sharkey, an attorney, hereby certifies that she served a copy of the foregoing Notice of Filing and Motion for Reconsideration on the persons listed below by UPS Overnight Delivery, on May 1, 2003.

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

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

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

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



Patricia F. Sharkey