

Urban Flood Safety & Water Quality District 2020-21 Public Hearing Minutes

Thursday, June 4, 2020

3:00 pm

1880 NE Elrod Drive
Portland, Oregon
Via Zoom Meeting

Present:

TSCC:

Chair David Barringer, Vice Chair James Ofsink, Commissioner Margo Norton, Commissioner Mark Wubbold, Executive Director Craig Gibons and Budget Analyst Tunie Betschart.

Absent: Commissioner Harmony Quiroz

UFSWQD:

Board Members: President Mike Jordan, Shirley Craddick, Corky Collier, Tanney Staffenson, James Allison, Dave Ripma, and John Ulma

UFSWQD staff: Executive Director Peggidy Yates, Policy & Administrative Manager Emily Stumpf, Legal Counsel Hong Huynh Budget Officer Casey Short, Multnomah County Government Relations Associate Taylor Steenblock

Chair David Barringer opened the public hearing to consider the Urban Flood Safety and Water Quality District's 2020-21 Approved Budget and asked the Commissioners and staff to introduce themselves and state if they had business relationships with the district that could be perceived as a conflict of interest. Following TSCC commissioners and staff introductions the Urban Flood Safety & Water Quality District board introduced themselves.

Since this was the first meeting with this newly formed district, Commissioner Ofsink gave a brief introduction to, and description of, the duties of the Tax Supervising & Conservation Commission. He emphasized that the commissioners represented taxpayers in their review of the budget and at the hearings. The other focus of the commission is support for the districts under their jurisdiction. He explained that staff is available to assist the district with advice on Local Budget Law, budget preparation and the hearing process. He encouraged them to use this resource when they have questions.

Chair Barringer added that the commission would use this hearing to get acquainted with the district and gain understanding about the organization and their future goals. He then asked if the district had any introductory remarks they would like to make on the budget.

Mr. Jordan thanked TSCC for their service to the community by overseeing the budgets for Multnomah County's municipal districts. He explained how the UFSWQD came into being through the 2019 legislative session. He said they are an interim board. He explained that it was their job to get the district up and running, and establish a permanent funding source. He briefly described some of the aspects of this first budget. There were contributions from each of the four drainage districts to get the district started. There is money from the legislature that has been set aside for

the work that they want to do. It has to pass through the Joint Contracting Agency, (JCA) that was put together a few years ago for collaborative work which they have been doing up to this point in order to get to this place. That JCA was named as the recipient of that state money. Once they get going up and running they will need to amend the budget, and enter into an intergovernmental agreement with the JCA to be able to have those funds flow to the new district.

Following the brief overview of the district and the budget, the hearing moved to the prepared questions.

TSCC Questions:

Commissioner Norton asked the following questions:

Congratulations on your new district. You are now the smallest of our districts; but we do anticipate that you will grow. We have the benefit of your website and the five year timeline that is available there. So what we'd like to do, now, in our get acquainted session is figure out how you're going to move on that five year timeline; how you see that developing; and also to understand what your current and emerging relationship is with the four drainage districts until the point at which they dissolve. So presumably they have budgets for next year. They're going to be operating. What's your role with them? How is that going to evolve? And how are we going to get to 2025 when the district is really a big kid on the block.

Mr. Jordan answered saying:

The purpose of the Initial Urban Flood Safety and Water Quality District (UFSWQD) is to organize the district and to develop and approve or seek approval from the electors of methods of funding the operations of the District.

It is the district's board's desire to establish an effective governance and funding stream in a deliberate and timely manner taking into consideration the flood risk mitigation currently managed by the four drainage districts that represent the Columbia Corridor Drainage Districts. In addition, the District has expanded responsibilities outlined in ORS 550 including:

- Improve water quality, fish and wildlife habitat, floodplain restoration and landscape resilience;
- Promote equity and social justice in all aspects of the District's operations;
- Prepare and adapt to the impact of climate change in relation to the managed floodplain;
- Provide the public with information regarding the cultural history of the territory in the managed floodplain.
- Establish the proposed boundary of the district based upon beneficiaries of the services

Developing a revenue model that accounts for the existing services as well as the expanded responsibilities will take time. The development of a revenue structure will include community education and outreach. Once an equitable funding stream is finalized, the UFSWQD will work closely with the four districts to transition to the new funding mechanism. The effort is anticipated to take three to four years to complete.

During this time, the Peninsula Drainage District #1, Peninsula Drainage District #2, Multnomah County Drainage District and the Sandy Drainage Improvement Company remains focused on Flood Safety and Protection until they are called for dissolution by the

elected Permanent UFSWQD Board.

During this transition, it is anticipated that the Multnomah County Drainage District staff will continue to meet the obligations of the existing districts while supporting the efforts of the initial UFSWQD. Upon dissolution, MCDD staff will become a part staff of the permanent UFSWQD. So that's just an outline of what we're anticipating right now. I'm sure time will tell if we have other things come up for sure.

Are you at a point where you could comment on potential funding mechanisms? I know that the modeling map is part of the ongoing work to get you to a decision point, but do you have any parameters or guidelines that you're working with at this time?

Mr. Jordan answered:

There has been quite a bit of work done under the Levee Ready Columbia process that we've been doing now for some years. And there was a governance and finance sub-committee that worked for quite some time with consultants to look at the different possibilities for funding. Not only the capital improvements necessary for the levees be certified and accreditation for flood insurance; but also for the future operations of the new district. And so we spent quite a bit of time looking at different alternatives, the one we've spent the most time looking at is a utility model. Some of the work that needs to be done by this board in this initial phase, will be to do enough planning work around all of those obligations that I read under the statute. We will need to be doing enough planning work, that we can establish a cost basis for the utility. And then the methodology will need to continue the work so that we can find an equitable way to allocate those costs across the district.

Commissioner Ofsink asked the following questions:

What is the relationship of the district to the Levee Ready organization? What activities is Levee Ready undertaking now and will those duties transition to your district? How will the district board be created?

Ms. Craddick responded saying:

I have to say there's a lot of people on zoom and this call today that deserve a great big pat on the back, because this is an amazing accomplishment in a fairly short period of time. And I'm very proud of the progress that we've made over the last seven years.

The Levee Ready Columbia partnership was created in 2013 when the four districts were faced with accreditation challenges from FEMA when levee standards were modified post Hurricane Katrina. The Levee Ready Columbia partnership came together to work collectively, staffed through the Multnomah County Drainage District, to focus on the United States Corps of Engineers certification and FEMA accreditation. FEMA accreditation is critical in mapping flood hazard, providing federal flood insurance and FEMA assistance in a flood emergency. In 2015, LRC became an Oregon Solutions project bringing State resources to the effort, which then brought a state resources to the effort. So that was quite an accomplishment to receive that.

I do already know that this corridor is a pretty significant corridor for the Portland Metro region. We have a few assets that sit behind that corridor. And one of those is our Portland airport, and of course all the many businesses and jobs that sit behind that too. And so it's a pretty important area.

The LRC partners, along with districts, recognized the importance of modernizing the infrastructure system and promoting a modern governance that reflected the importance of the districts as a collective system. LRC partners, with support from Oregon Solutions, were instrumental in relaying the inter-relationship of the four drainage districts as a complementary system that manages conveyance and mitigates flood risk along 27 miles of the Columbia Corridor.

In the 2019 Oregon Legislative session, SB 431 was passed to create the UFSWQD. The legislation is the result of the work advanced by the Levee Ready Columbia Partnership, the districts and Oregon Solutions. There is currently no formal relationship between the UFSWQD and the Levee Ready Columbia but the LRC, the districts and the UFSWQD share the same goals of reducing flood risk, protecting people and property from flood risk and conveying water for flood safety.

In FY21, the LRC partnership remains focused on accreditation projects, supporting the US Army Corps of Engineers Feasibility Study and keeping the UFSWQD apprised of the progress. The LRC Board has not determined if, when and how the accreditation projects will transition to the UFSWQD. When we know we have money that might help.

The UFSWQD Board of 17 members was constituted in accordance with the legislation. Each constituent member entity nominated a representative and took board/commission action to formalize the selection. The five governor nominees went through the Governor's Office's nomination process and received formal designation from the Governor in April.

Just sort to clarify on that last part on a governance: So there's five appointed by the governor and then 12 from a constituent districts. And then did I hear in Mr. Jordan's comments that in the future there will be directly elected positions or was I misunderstanding?

Mr. Jordan answered saying:

That's correct. There will be a five elected positions and four appointed.

(Following some technical difficulties, Mark Wubbold joined the hearing at this point, introducing himself and stating he had on conflicts of interest.)

Commissioner Wubbold asked the following questions:

The legislature authorized the formation of your district during the 2019 session. Did that authorization include all the authority that the district framers requested?

Ms. Huynh responded saying:

I will provide a little bit of background to provide context and perhaps qualification for the answer I'm about to give to this question. I was the lawyer given the task to scour out the water district law to define the best form in which the four districts could consolidate. I did that about six years ago as outside counsel at Miller-Nash. Since I've moved in-house and serving the district now. The idea of consolidating the four districts to recognize the flood control system as a whole has been around for many years. In addition to that the fact that through the history of the drainage districts, which is based on statutory chapters that were enacted about a hundred years ago, took on certain aspects of federal obligations as well. Through a

century, the existing statute became, impractical for a lot of reasons. In working with the drafter of the legislation, and along with the Levee Ready stakeholder, we were able to come up with this legislation and passed it that does at least give the drainage districts authorities through the urban district all of the current known needs. I know as we go through and mature as a district, we may want something else, but it certainly has met, at least on the operational side, the ability to continue to operate an existing flood control system. Other aspects of the work of the districts is consistent with the community, including environmental justice, environmental conservation, and climate change among others. So that is an expansion of the authority of existing drainage district that was something the Levy Ready partnership had advocated for and received.

Just as important is the ability for the district to finance the operation and maintenance and capital projects beyond property assessment ability of the drainage district, which are limited by a number of constitutional limitations. So now we are able to do user and utility fees, revenue, bonds, general obligation bonds. These things have opened up an ability to be able to have a more stable revenues in order to take on the growing responsibilities and obligations of the drainage district that is commensurate with the development of the land area over the last century. We've gotten what we think we need.

Chair Barringer made this observation:

Part of the reason we asked that question was, we wanted to make sure you weren't missing something going into your first couple of years, and you'd have to go back to the legislature and ask for something else. But it sounds like as of this point, you fully have what you need, but you may have to go back later as you have experience.

Mr. Gibons added the following:

I would like to add that the reason you are a member of TSCC, as opposed to the drainage districts that are not, is that you have the ability to levy a property tax for general obligation bonds, and that's what sets you apart from the drainage districts.

Chair Barringer asked the following questions:

As Executive Director Gibons explained, the district has the authority to assess constituents for its services and to levy a general obligation funded through a property tax. What funding models are you developing and what is the timeline for implementing them?

Mr. Stafferson fielded this question saying:

ORS 550, as stated in Question 3, provides the UFSWQD expanded powers to equitably collect revenue from those that benefit from the Columbia River levee system in northern Multnomah County. The levee system serves and protects significant industrial and economic land, one of the state's most important transportation hubs, the Portland International Airport, the region's second largest source of drinking water and numerous natural assets. Preliminary revenue analysis was done by the LRC in 2018 prior to the legislation. A more in-depth analysis will commence in FY 21 in consideration of the additional responsibilities of the UFSWQD.

It is premature to state the most equitable revenue tools that will be employed by the District, but in addition to the authority to assess a general obligation bond and collect ad valorem property tax, contingent on voter approval, the District may also issue revenue bonds, use

land assessments, develop utility rates, charge system development charges, organize local improvement districts, and charge service and user fees.

Developing an equitable and effective funding mechanism is likely to take two to three years considering the importance of community outreach and public input into the process. It is always important to engage the public as much as possible.

Absolutely, but in terms the FEMA requirements and the flood insurance requirements, don't, you have some pretty immediate timelines to hit?

Mr. Stafferson explained saying:

We do and we still have the districts working on the plans and regulations FEMA has and what the Army Corps is asking for. With that mechanism still in place, we're able to do some of the work that we need to do as districts. That's where it's kind of interesting because we have the districts and then we have the initial board and the new board, and everybody's in their lane. We're still committed to making sure we get all the work done that we need to have done and timely manner.

Ms. Yates added the following information saying:

And if I can add one thing, the Levee Ready Columbia partnership idea is still focused on moving those accreditation projects and certification projects forward. It's the new district, the existing districts, as well as the LRC are still in their swim lanes, but looking at how they're going to eventually merge.

Commissioner Norton had this follow-up question:

I'm still puzzling about the future funding mechanism. And particularly describing it as following a utility model. My understanding is that the one of the short comings or disadvantages of the existing four districts is that the funding mechanism was only available to the abutting property owners who were perceived as the ones that had the direct connection because of the adjacent land. And I certainly understand that economic development argument and clearly the importance of the airport to the entire region; and yet a utility model still has that use implication. How are you going to sell that to your broader district, particularly with regard to revenue bonds, because revenue, bonds require a revenue stream?

Mr. Jordan answered this questions stating:

We've spent a lot of time thinking about how you would construct a finance model that optimally balances benefits and burdens. Under the LRC process, we had pretty extensive conversations about trying to apply a utility model within the managed flood plain for the benefits that accrue to those properties; which is both flood protection and protecting jobs and property. But some of the responsibilities in the new legislation, go beyond just flood control. And then the current four districts also have an obligation which will continue into the future of managing surface water that comes off of Alameda Ridge, basically outside the managed floodplain and needs to get conveyed to the Columbia River.

So there is a benefit for surface water management for an area that's outside the managed floodplain. And then there's also this broader benefit that you mentioned about having an international airport for the entire region and interstate freeways, and a significant number of jobs that people who live outside the managed floodplain.

It is likely that that general obligation authority might be used in the broader district to be able to attack some of those flood control capital issues that benefit all of the people within the district. So we're looking at a layered approach.

You're right about your observations around using a utility model. You have to have a service benefit that people who are paying that needs to be somewhat proportional to the fee. Then if we can establish that we might be able to use revenue bonds for some parts of the capital maintenance work over time.

Commissioner Norton added the following comment:

What I took from that was that the utility aspect might apply only to the floodplain, whereas the general obligation bond authority might apply to broader region.

Mr. Jordan said:

That's generally correct.

Chair Barringer asked the following questions?

If FY21 goes as planned, what will be the main things the district will want to discuss at this hearing next year?

Mr. Jordan answered saying:

First of all, of course we need to get up and operating as a board. We will have some forming and storming things to do, getting some bylaws about how we're going to operate and those kinds of issues. As you probably gleaned from this conversation, there are kind of multiple tracks of activity, some of which are ongoing and are relatively mature, some of which are just starting out. We're going to try and track all of those and bring them together into some kind of cohesive plan as we go forward. But for the board, the major obligation we have is to develop this ongoing funding source. If in fact, we continue to pursue this utility model as one of the major components of that, the first thing you run into is what's the cost basis for the utility? And so we need to do enough planning work this year, or at least get it started this year, for the board to ascertain what the elements are that will establish the cost basis by which you would use a utility methodology to allocate.

We have to continue to work on a methodology, but we really need to do some high level planning work and engagement with the public to try and establish what are the component activities and what will those costs be so that we can actually bring that all together and present to the public, some kind of rational methodology for allocating those costs. So if we're at a point where we can start talk with some credibility about what is the basis for the cost; and here's what we've learned about the model; we're still working on it, but we've learned a lot; if we can be well down the path of those pieces of work, I would consider it a huge success in year one.

And then on the expense side, are there some expenses that you want us to check in with you about in a year from now?

We have a total of \$40,000 budget right now. We are expecting that a significant portion of the half-million dollars that's in the money from the state will be able to be used for some of

these activities I've mentioned. LRC has been underway now for a number of years, that partnership. We are not starting from zero, there's been quite a bit of discussion about our vision. We really need to put those into a traditional planning process, come out with some activities and costs, and to estimate how much it will cost, because we need to engage with the public in these discussions, the broader public. That, can be a very expensive operation depending on how robust that that engagement is. So a little tough to tell you right now, but that's where we're headed.

Commissioner Ofsink asked this follow-up question.

From Mr. Jordan's and Ms. Huynh's comments, I understand that the district, in addition to what the current drainage districts are doing, has some of these additional responsibilities around climate change; and I thought I heard equity or social justice in there as well. I was just wondering, in very broad sense, where the district is right now in thinking about what those services might just look like; what social justice or climate change the district would be working on that would differentiate from what drainage districts have done historically?

Mr. Jordan responded saying:

If you look at that list of things that are in the legislation, to varying degrees, all of those things are going on in the managed floodplain right now. I work for the City of Portland and I'm the director of Environmental Services. Part of our mission are all those things listed in the area of the district. And so one of the discussions will be, what are we trying to accomplish as a community around those topics? Who's already doing work on those topics? How can we collaborate to get to those goals more efficiently and effectively? I don't think any of those things will be all the new district's responsibility. It will be our responsibility to be a collaborator and a cooperator with others who are trying to get at those same things.

The Port has many of those things in their strategic plans. And I know BES does. Metro does for much of its work. It will be up to the district board here to start to think, we don't have to do everything, but we need to be a collaborator on those things. So what does that mean for us? And I think some of those questions will be some of the more thorny ones. What's our role and responsibility and how do we actuate that? And of course, estimate costs. What would a program look like? How much staffing would it take? And it's those kinds of challenges, that will probably take up the bulk of our conversations.

Mr. Collier added to that saying:

I think that's well put. One way to look at it is, over a hundred years ago when these drainage districts were first starting to be formed, their task was very different than it is now. Their financial models were very different than it is now. And a lot of what we're doing now is updating that. We can't continue to operate in the future using the financial mechanism that was created a hundred years ago. In a similar vein, we can't continue working on our natural resources with the same perspective that was created a hundred years ago, and we need to incorporate environmental justice in a different way than they did a hundred years ago. So a lot of it is updating this.

Mr. Staffenson added the following comments:

If you look at it, it has evolved over a hundred years. Districts have been primarily worried about the levees; taking care of the levees; keeping them accredited; making sure those properties to take care of behind the levees. Social justice, environmental justice, and habitat

haven't always been the top concerns for them. So it's a new way to look at it. You're going to incorporate and collaborate with these other groups and end up with a better product.

The standards have changed in Sandy district. Over a third of the water that we pump out of there comes from residential properties on top of the hill because of topography. And those people don't contribute anything to this. As cost goes up, you end up putting more burden on the ones paying. And so you've really got to change this model to make it work.

Ms. Yates added the following remarks:

As Mike Jordan was saying about the work of the Port and BES and the City of Portland, the existing drainage districts have started to incorporate some of this methodology in-house as it is, as far as equity. It will have to be a collaboration.

Chair Barringer said that is the end of the formal questions by the commissioners. He asked Executive Director Gibons if there was anyone in attendance that would like to speak. There was no one.

Chair Barringer thanked Urban Flood Safety and Water Quality District's board members and staff for their attendance and contributions to the hearing. He then closed the public hearing and opened a meeting of the Tax Supervising and Conservation Commission. He asked if there were any comments on the budget. There were none. So he asked Executive Director Gibons to give a review of the budget and staff's recommendations.

Executive Director Gibons thanked the district staff for their help with the budget during this unique time. He said TSCC staff recommend that the budget be certified with no recommendations or objection to Urban Flood Safety and Water Quality District's 2020-21 budget and budget process.

Chair Barringer asked for any comments from the commissioners. Commissioner Ofsink thanked the district's board for attending and participating during the hearing under the circumstances. He said the discussion today was good and TSCC appreciates their comments.

Commissioner Norton moved to approve the certification letter as presented by staff. Commissioner Ofsink seconded the motion which passed with a unanimous vote.

Chair Barringer asked for any comments from anyone. There were none. The meeting was adjourned.

Minutes reviewed and approved at the Commission's June 15th 2020 meeting, with commissioner Norton edits included.



Craig Gibons