

Urban Flood Safety & Water Quality District 2023-24 Public Hearing Minutes

Wednesday, June 7, 2023

1:00 p.m.

Portland, Oregon

Via Zoom Meeting

Present:

TSCC:

Chair Harmony Quiroz, Vice-Chair James Ofsink, Commissioner Margo Norton, Commissioner Mark Wubbold, Commissioner Matt Donahue, Executive Director Allegra Willhite, and Budget Analyst Tunie Betschart.

Absent: None

UFSWQD:

Board Members: Tanney Staffenson, Corky Collier, James Allison, Nancy Hendrickson, Bob Sallinger, Erich Mueller, Heather King, Maryhelen Kincaid, Brent Cartwright.

UFSWQD staff: Executive Director Jim Middaugh, Director of Planning and Public Affairs Colin Rowan, Legal Counsel Hong Huynh, Board Coordinator Wendy Lynn and Director of Finance Lori Baker.

Chair Harmony Quiroz opened the public hearing by welcoming everyone to the hearing and briefly describing the duties and responsibilities of the TSCC. She reviewed the hearing process and stated the hearing was to engage the district leadership and provide an opportunity for the public to comment before the Urban Flood Safety & Water Quality District adopts its budget. She asked the TSCC Commissioners and staff to introduce themselves and state if they have business relationships with the district that could be perceived as a conflict of interest. Each commissioner and staff member introduced themselves and said they had no conflict of interest with the district. She asked the UFS&WQ district to introduce the board members and staff present. Executive Director Jim Middaugh made brief introductory remarks during the introductions.

Chair Quiroz asked if there was anyone signed up to give public comment. Executive Director Willhite reported that no one had signed up to speak at this hearing, and she had not received any written comments. TSCC prepared questions followed.

TSCC Questions:

Commissioner Wubbold asked the following questions:

As evidenced by the changing timelines for the work needed to fully launch the district, such as revenue model completion and electing the new board, we imagine the actual work may be more difficult than originally envisioned. What challenges have you faced in completing this work? What do you wish you had done differently? Has there been anything you found that is actually easier than originally thought?

Mr. James Allison said the most challenging issue is applying for and collecting a utility fee. Legal, technical, financial, and political challenges with a fee were not fully considered during the legislative process. Legally, the challenge is maintaining the appropriate nexus and proportionality

of a fee in the collection of the fee. In short, the new district seeks to collect a fee based on benefits received for payers outside of the managed floodplain. That requires a different basis than the district's partner municipal stormwater utilities use to charge for stormwater.

Technically, a fee-based approach collected by partner agencies would require the new district to adapt software for at least five, and likely seven, different utility billing systems to collect a fee based on benefits received outside the floodplain. Partner agencies suggested that while this approach is doable, it would be complex, time-consuming, expensive, and prone to bugs and other challenges.

Financially, the district evaluated independent collection services to avoid the previously described legal and technical issues. Those services – like the Portland Arts Tax, Houseless Services Tax, and Preschool Tax – proved exceptionally expensive, costing \$3 to \$4 million a year for billing and customer service alone, resulting in significant under-collection. Experience with other local taxes suggests an initial collection rate of about 60% and a terminal collection rate of about 80% in year five. Because the new district cannot shut off services to those who do not pay, collection also became a costly challenge.

Politically, the shift from an assessment approach on property tax bills to a utility fee resulted in concerns about at least three matters.

They are::

- The change to a fee results in the loss of homeowners' ability to deduct costs from their federal taxes
- The cost of assessments on many properties in the floodplain is considerably larger than typical stormwater charges, often orders of magnitude larger. Staff heard concerns that city councils would be challenged to put such large fees on the stormwater bills
- The shift to a fee also would eliminate the effects of compression for flood safety assessments on the floodplain

While that is an important goal, shifting to a fee in a single step would result in massive cost increases, in some cases tens of thousands of dollars, in a single year. Staff believes that shift is very challenging and could cause significant harm to a range of businesses.

Due to these challenges, the staff is now recommending the district maintain assessments based on property ownership in the floodplain, at least for now, and that the district shift its focus to using a privilege tax on gross receipts of municipal stormwater utilities. Those changes will require amendments to the district's authorizing statute.

Can you talk about something you wish you had done differently and something easier?

Ms. Maryhelen Kincaid said it was easy to convince people that something needed to be done to upgrade the system. But it is not clear what it will cost to do this. Her concern is the cost for people who cannot afford a 20% increase. There needs to be provisions for low-income folks.

Mr. Jim Middaugh said they have received unwavering support and collaboration from all local government partners. Their commitment to making this work is refreshing.

Mr. Allison added that everyone knew this was going to be challenging. Staff has worked hard to keep this project moving forward. They would work through them when they hit roadblocks and find new solutions. There are still problems, such as collections, that they are still working through.

Commissioner Norton asked the following questions:

Developing and implementing an operating revenue structure has been delayed again, but our materials indicate that a decision will be made this summer with implementation by January

2024. This suggests that the list of potential revenue sources has been narrowed to some preferred options. What can you share with us today about the options under serious consideration? How confident are you that you will implement a new operating revenue model in FY 2023-24?

Mr. Allison said that staff is working with the board to find a successful revenue model. Work is continuing on this step of the process. Staff is recommending the board approve seeking amendments to the district's authorizing statute to transfer the legacy districts' property assessment authority to the new district for the floodplain. Staff also recommends the board approve seeking authority for the new district to implement a privilege tax on stormwater utilities in the district. Board members are currently evaluating these recommendations. They are working through a lot of uncertainty.

Mr. Middaugh added that he does not expect to have a new revenue source during the upcoming budget year. They are hoping to have new revenue sources by the following year. It will require an act of the legislature and board approval to make this happen. More conversations must happen first since they are still not all in agreement.

We assumed the district formation also provided the statutory authority for operational revenue. Does the district currently have a matter pending before the legislature regarding operating revenue?

Mr. Middaugh said they are continuing to discuss with the board the challenges associated with the current legislative authority. Staff believes the district would benefit from additional amendments providing authority related to a privilege tax and the ability of the new district to maintain the existing assessment methodology or one consistent with it on the floodplains for some time.

Mr. Corky Collier said when they went to the legislature initially to get the taxing authority they have, they trimmed it down for simplicity to get it through the legislature. Now, they are questioning whether trimming it down was the right action. They wanted to sidestep more taxes to avoid compression. He hopes the legislature will see that the districts intend to assess the fees as equitably as possible while preventing tax compression.

Chair Quiroz asked the following questions:

Last year you proposed to spend considerable time and money for communications and public engagement, including introducing the new district, previewing potential revenue sources, gauging public and regional acceptance, and possibly finding potential board candidates. How is your communications plan going? Do you feel that you are meeting your objective and voters are aware of the new district, the election of future board members, and future revenue needs?

Ms. Heather King said the UFSWQD's initial board is charged with developing a revenue structure to support the operating and capital needs of the district. This requires ongoing efforts to build awareness and create community trust.

During FY23, the agency utilized the communications budget to support the development of a general obligation bond package, including creating a new public face of the bond effort: Flood Safe Columbia River (www.floodsafecolumbia.org). Through the Flood Safe Columbia River branding, they have introduced the effort to various audiences, including neighborhood groups, community-based organizations, and environmental non-profits. The board and staff made presentations at community events and are tabling at events most weekends. They have also established an Engagement and Outreach workgroup comprising board members and stakeholders to guide the engagement effort through the following year.

The FY24 budget makes it possible to continue progress on the communications plan, provide education (including educational mailings), and pay for election costs associated with the May 2024 ballot. As the district goes from about 8,000 residents in the legacy districts to approximately

800,000 residents, the agency knows that a lot of people likely do not understand that the agency has levees in Multnomah County, that there is considerable flood risk and that the district needs to operate, maintain, and improve the system like all other infrastructure. They aim to bring this information to as many people as possible through multimedia.

Commissioner Ofsink asked the following questions:

For the direct mailing, do you plan to have a direct mailing that would be sent to all the residents within this district, or will it be a more targeted mailing? What is the districts strategy?

Mr. Colin Rowan said it is a big challenge. Many people are unaware that the levee exists. There is a lot of work to do to get the word out. The district intends to do a direct mailing to members to educate them about the agency.

Can you tell us more about the new board recruitment for the five elected members - are you working to encourage candidates actively? Are there particular skill sets you hope to see in the new board?

Mr. Collier said staff has been reminding key partners and stakeholders about the pending election for board members. The authorizing statute allows the governor to appoint several board members based on specific expertise. Selecting other members is the job of voters. From his perspective, they are looking for people who can unite five municipalities, businesses, homeowners, and environmentalists, and ideally, someone with a good understanding of government finance.

Commissioner Norton asked this follow-up question:

Are you expecting an operating revenue decision before the election of the new board, or are you hoping to use your board members to help inform the public about an upcoming new measure?

Mr. Collier said, ideally, they would go hand in hand. The board members running for election could help spread the message.

Mr. Middaugh added that the methodology staff recommends for operating revenue will not require voters' approval. The two items before the voters in May 2024 would be the election of the board and the approval of the Capital Bond measure.

Ms. Kincaid added that her concern has been the public outreach. When discussing this with the general public, she noticed most people know nothing about the levee. She said another concern was the low attendance of landowners at meetings about the levee. The board needs to get landowners more involved.

Commissioner Donahue asked the following questions:

This budget appropriates 100% of available resources. Without any contingency or unallocated ending balance, do you have a plan for unanticipated expenses – just in case?

Mr. Erich Mueller said the budget for the district reflects limited funding resources, carryforward fund balance, and available borrowing from the City of Portland. Given this, it was challenging to develop a balanced budget that provided the expenditure levels supporting the necessary activities for the year. In the case of unanticipated expenses, the board will either need to reduce spending in another category to cover those expenditures or work with our legacy districts to obtain additional funding, which would then be added through a supplemental budget process.

Commissioner Wubbold asked the following questions:

This year's contract with Multnomah County Drainage District #1 for staffing is expected to exceed budgeted estimates by 87%. Why were costs more than expected? Did MCDD staff take on work originally expected to be completed by consultants?

Mr. Tanney Staffenson said the staffing agreement between MCDD and the Urban Flood Safety and Water Quality District included two charges:

1. Staff with stable time commitments that are directly allocated.
2. Staff with variable time commitments that are charged on an hourly basis.

The adopted budget for fiscal year 2022-2023 did not include budget dollars for those staff that are charged on an hourly basis. This was an oversight in the budget process that resulted in the understatement of that budget line item.

Commissioner Norton asked the following question:

We know that the district is considering referring a general obligation bond to voters. We understand that work is preliminary at this point, but we hope you can elaborate on the intent and plans for a potential bond. Are discussions far enough along that you will be able to refer a bond measure to the voters in May 2024? If the intent is to use the bond funds to access federal dollars, what happens if the bond is unsuccessful when it is put to a vote? What other options do you have to get those federal funds?

Mr. Erich Mueller reported that the district's schedule refers to a general obligation bond to voters in May 2024. If the bond is unsuccessful that month, staff will work with the UFSWQD Board to determine whether a revised bond measure would be referred to voters for the November 2024 election.

If the bond is not approved, the district will work with its agency partners to develop a funding plan to pay for the local match to complete the construction phase of the federally funded projects to support the Portland Metro Level System and the PIR Pump Station. The local match for the design phase for these projects has already been secured.

Chair Quiroz asked the following questions:

Does managing a flood district on a river that borders two states offer any challenges? We see that the district toured new levee improvements near Washougal. How do you partner with similar agencies on the Washington side of the river to ensure one side's actions do not adversely affect the other?

Ms. Nancy Hendrickson said the district relies on the U.S. Army Corps of Engineers (USACE) hydraulic analyses of the larger Columbia River system to help identify potential risks its levee raises could have on other properties along the river. The USACE conducted this evaluation for the 2021 Portland Metro Levee System Feasibility Study. The result of this study indicated that the change to the flood risk for properties along the Columbia River is very small, with less than a 1" increase in water level during the 1,000-year flood event. The district protects against 100-year floods and also considers 500-year flood event scenarios, and note that 1" in a 1000-year flood scenario is very minimal, and certainly below a serious level of concern. District staff plans to contact other public agencies responsible for flood protection as part of its ongoing agency coordination efforts.

Commissioner Ofsink asked the following question:

Last year, we heard about how the district was working with consultants to establish an Equity Framework, and the board shared plans to develop organizational and department-specific equity action plans consistent with the Framework. A year later, how is that plan proceeding?

Ms. Hendrickson said the board adopted an equity framework. The district is evolving existing agencies rather than starting from the ground up. Part of the equity framework's success was that the legacy districts initiated it and took advantage of previous investments and policies. As well as considering the impact of fees on the communities served, the initial focus of the work is improving the procurement process to benefit communities of color and providing an inclusive work environment. Action plans remain in the concept phase while the board determines the scope and resources that will be made available for the work. Staff is focused on employee recruitment and retention, training, and procurement. Staff also is working to identify ways to make the new district's fees as progressive as permitted by statutory authority. Staff also recommended the board set aside \$500,000 in the first full year of operations for the new district's "new mandates" work, including equity, cultural history, climate resilience, and environmental benefit. The board has taken these recommendations under advisement and will vote on them soon.

Chair Quiroz thanked the district board members and staff for joining the discussion and contributing during the hearing. Then she closed the hearing and opened a regular Tax Supervising and Conservation Commission meeting to certify Urban Flood Safety & Water Quality District's 2023-24 Approved budget. She asked if the commissioners had any questions or comments concerning the budget. There were none.

She asked Executive Director Allegra Willhite to give staff recommendations for the certification letter.

Ms. Willhite thanked Urban Flood Safety & Water Quality District for their quick responses. They reached out throughout the year when they had questions to ensure they were in compliance with budget law. They have been great partners during the preparation for this hearing. When questions arise about the district, UFS&WQ staff quickly respond and give TSCC staff thorough answers. This responsiveness is greatly appreciated.

She said staff found the budget estimates reasonable for the purposes stated and the budget to comply with Local Budget Law. Staff has no recommendations or objections to the fiscal year 23-24 budget.

Chair Quiroz called for a motion.

Commissioner Donahue moved to certify the Urban Flood Safety & Water Quality District's Approved Budget with no recommendations or objections as recommended by staff. Commissioner Wubbold seconded the motion, which passed with a unanimous vote of the commissioners.

There being no other business, Chair Quiroz closed the meeting.