



**METROPOLITAN SERVICE DISTRICT**

527 S. W. HALL, PORTLAND, OREGON 97201 222-3671

MSD BOARD OF DIRECTORS

SPECIAL MEETING

April 14, 1976

BOARD MEMBERS PRESENT

Commissioner Ray Miller  
Mayor Miller Duris  
Councilman Charles Becker  
Commissioner Mel Gordon  
Commissioner Connie McCready  
Commissioner Robert Schumacher

APPROVED METROPOLITAN  
SERVICE DISTRICT  
BOARD OF DIRECTORS

ACTION NO. 76-514

DATE 4-23-76

BY Jean M. Wood  
CLERK OF THE BOARD

STAFF PRESENT

Charles Kemper  
John Hanke  
Jean Woodman  
Connie Eliason  
Merle Irvine  
Bruce Henderson

76-513 FIRST PUBLIC HEARING ON ORDINANCE NO. 38.

There being a quorum present, Chairman Ray Miller opened the Public Hearing on Ordinance 38, an ordinance adopting a program of drainage management for the Johnson Creek Drainage Basin; providing for administration, planning, maintenance and acquisition of temporary easements; providing for financing through service charges; providing for collection of service charges and prescribing a termination date.

Commissioner Miller asked if everyone in the audience had a copy of the ordinance. There was no response.

Commissioner Schumacher made a motion to read the ordinance by title only. Commissioner McCready seconded the motion. The motion passed unanimously by a roll call vote. (Commissioner Gordon and Councilman Becker were not present).

Mr. Hanke read the ordinance by title.

Mr. Hankee proceeded to explain the sections in detail and Chairman Miller asked for any questions from the Board regarding Mr. Hankee's presentation. There being none, Commissioner Miller opened the meeting to public testimony and the following people addressed the Board:

1. Mr. Irwin Adams  
2453 SE Lake Road  
Milwaukie, Oregon

(representing North Clackamas County Chamber of Commerce)

Mr. Adams, speaking as a representative of the citizens residing in North Clackamas County, expressed concern that the Milwaukie Industrial Park area had never experienced flooding from Johnson Creek yet it was included in the boundary. He stated the only flooding the area had received was in 1948 and 1964, adding that the flood waters came from the Willamette River. Mr. Irwin disagreed with the Corps involvement in past and present studies in drainage, and could not see any relation to these studies with the Corp's proposal as outlined in the Johnson Creek Drainage Management Report. Mr. Adams also stated he had the impression that this program was not going to be a permanent solution after having reviewed the budget for the first three years of the program's operation, and that the entire program was depending on a state grant to finance just the first year of operation. He expressed concern over the amount of money being spent each year for emergency services, restoration of damaged property and temporary flood control measures along Johnson Creek because of the lack of comprehensive planning. Assuming that these estimated costs are expected to recur annually and that each year the governmental units and property owners pay directly for renovation, Mr. Adams felt more consideration should be given to these local jurisdictions and citizens in establishing their assessment rates.

2. Mr. L.B. Bethel  
10616 SE Foster  
(citizen)

Mr. Bethel felt the staff did not seem to realize that some of the easements along Johnson Creek had been washed away during high peak flows. He did not feel that his runoff was flowing to Johnson Creek and also disagreed with the fact that runoff in the Basin had increased in the last 5 years due to development. He based his accusations on a 50' well on his property which had collected a mere 10' of water in past years and was completely dry this year.

Commissioner Schumacher asked Mr. Bethel if he would be opposed to having an easement on his property. Mr. Bethel said no and added that there was a great need for flexible easement agreements to allow for unpredictable wash-outs.

Mr. Hankee explained that the easements were actually for the creek bed itself and not the banks of the creek.

3. Mrs. E.L. Clow  
6235 SE 94th  
(citizen)

Mrs. Clow complained of the amount of debris (refrigerators, auto parts, etc.) that was taken out of the creek in the 1968 Youth Corps clean up. She pointed out that in 1964 there was a vote to approve a proposal by the Corps to clean, widen and straighten the creek. The proposal was voted down. Mrs. Clow did not know why the MSD felt they could propose the same thing and expect it to materialize.

Mr. Hankee explained that the MSD proposal was not the same as the Corp's proposal of 1964. He stated that the MSD was trying to stay away from changing the physical appearance of the creek as much as possible and direct the improvements more toward controlling the flow of runoff. Mrs. Clow wanted assurance that the tax would not somehow continue beyond the original 3 year program without a vote.

4. Mr. E.L. Clow  
6235 SE 94th  
(citizen)

Mr. Clow was against the program because he felt the debris is being dumped into Johnson Creek by people who own property along the creek. He could not see any reason why everyone in the basin should have to pay for "cleaning up someone's backyard".

Commissioner Schumacher explained that the debris was not the reason for flooding in the creek, rather it is the runoff from property all over the basin. Commissioner McCready agreed with Schumacher and added that as far as the dumping problem was concerned, she was sure that the people who were doing the dumping in the creek could be prosecuted and forced to pay for damages. Mr. Hankee stated that the cleanup and maintenance portion of the Program was not aimed at clearing out peoples garbage and appliances, but rather at clearing away fallen trees, brush and gravel which is the real problem of jam ups.

Commissioner Gordon reminded the audience that the MSD was voted in to solve areawide problems such as the Johnson Creek problem. He added that according to MSD's study, the citizens in the basin have 4 other alternatives: 1) a building moratorium, 2) another 20 years of piecemeal solutions, 3) each local jurisdiction implementing compatible programs, or 4) nothing.

5. Oliver H. (Lee) Cromwell  
15820 SE Alder

(Candidate for State Representative District 21)

Mr. Cromwell stated that he was at the hearing primarily to become informed of the Johnson Creek problem and possible solutions. He asked Mr. Hankee if the \$150,000 grant had been definitely approved and whether it was state or federal.

Mr. Hankee explained that the state grant had not been approved by the Emergency Board to date. He added that if the state did not approve the funds, the program would cease.

6. Everett H. France  
3335 SE 116th  
(citizen)

Mr. France, a resident of the Johnson Creek area since 1915, presented the Board with a brief history of the area as he knew it through the years. He claimed that unauthorized dyking and flash flooding had been going on more than 60 years ago. He backed this up with a newspaper clipping of the Holgate Lake area from approximately 1920 along with a picture of the flood. Mr. France concluded by stating that he did not feel that flooding in the Basin had increased recently due to development.

(Commissioner McCready leaves meeting)

7. Jerry Bell  
6101 SE 122nd

(property owner, Foster Boosters, Johnson Creek Citizens Committee)

Mr. Bell was totally in favor of Ordinance 38 and urged support from citizens.

8. Mr. Wayne Frie  
7235 SE Label Lane  
(citizen)

Mr. Frie was opposed to Ordinance 38 because he felt that the assessments should be computed on a square footage of property basis. He also objected to spending \$150,000 on a program that may not definitely solve the problem.

Commissioner Gordon asked Mr. Frie to tell him specifically what should be done about the flooding. Mr. Frie responded that nothing should be done and that the residents who get flooded each year knew the consequences of owning that property when they purchased it.

9. Mr. John Green  
6630 SE 106th  
(citizen)

Mr. Green stated that he is a property owner in the flood plain and that he did not know his property would be flooded every year when he purchased it. He felt that all the counties should be responsible for a solution to the flooding problem. Mr. Green explained that a sewer had just been connected in his area and he expressed concern over the possibility of a back up in the creek causing a sewer back up around SE 106th and Foster.

At this point, Mayor Duris asked for a show of hands of all those who had been flooded. There was a total of 9 hands. Total attendance was approximately 60.

10. Lester Fowler  
9490 SE Wichita Ave.  
(citizen)

Mr. Fowler felt that the creek definitely needed to be cleaned and that he would like to see more people who live directly on Johnson Creek get more involved in promoting a solution. He added that in his opinion the citizens who live on the upper elevations who never get flooded are the ones causing the delay on a solution because of their reluctance to contribute money or effort.

11. Dr. Larry Griffith  
12525 SE Knapp  
(citizen)

Dr. Griffith was in full support of Ordinance 38 adding that he is an uphill resident who never gets flooded, but recognizes the damage he is causing to residents below. He stated that he believes runoff has increased over the years due to development in the basin. Dr. Griffith added that the key to solving the flooding is maintaining minimum and maximum flow of runoff and that creek maintenance is everybody's responsibility.

12. Mr. R.E. Martin  
10910 SE 145th  
(citizen)

Mr. Martin believed that the switchbacks in the creek are the main cause for the build up of debris. He added that most property owners would be happy to grant easements for the purpose of straightening the creek.

13. Mr. John Pumpelly  
5140 SE Circle Ave.  
(citizen)

Mr. Pumpelly questioned whether this plan had been evaluated by the Corp of Engineers. Mr. Hankee stated that the Corps had made many studies on many other alternatives and also has started a Water Resources study. However, Mr. Hankee stressed the need to begin the minor maintenance in the creek now.

Mr. Pumpelly asked how his runoff flows into the basin when his sewage flows the opposite direction. He felt that he was not contributing to the flooding. Mr. Hankee explained that his sewer is most likely pumped the other direction as is commonly done in many areas.

Mr. Pumpelly felt that higher taxes for the upper elevation residents was not equitable. Commissioner Gordon explained that due to the development in the upper elevations, more runoff has reached the lower properties causing the value of their land to drop. Gordon added that it is the responsibility of the upper residents to compensate for this devaluation. Mr. Pumpelly still felt that if the tax levy is approved, the upper residents should not have to pay quite as high a tax as the lower residents since, in reality, the upper residents would be paying to raise the value of someone else's property.

Pumpelly asked about a possible state grant for youth groups to do the cleaning in the creek. He then concluded by expressing disapproval of the idea of taxing without a vote of the people and added that he felt the job of solving the drainage problem was

much larger than the tax base of the area allowed for.

14. Mr. E.G. Rucker  
6007 SE 190th  
(citizen)

Mr. Rucker was also in objection to a tax without a vote. He was basically in opposition to the ordinance.

Mr. Hankee pointed out that everyone seems to disagree with most aspects of the proposed plan, but no one offers any alternate solutions. Commissioner Gordon added that even though the lower property owners may have bought property in the flood plain knowing the consequences, we nevertheless have a serious drainage/flooding problems which needs to be resolved.

15. Mrs. Roma Sexton  
15888 SE Monner Rd.  
(citizen)

Mrs. Sexton was in full support of Ordinance 38. She stated that she believes the flooding has increased in the basin over the years. She added that a rental house which she owns was flooded this year after withstanding year after year of flooding in the past. Despite her support of the proposed plan, she was doubtful that if the choice was given to the voters, it would pass. She felt the reason for this was the fact that only 2% of the total basin residents ever see the flooding.

Commissioner Ray Miller requested that everyone in the audience who favored a program similar to Ordinance 38 raise their hands. With approximately 60% of the original audience present, 13 people were in favor. A vote was taken on those opposed to the plan with a count of 10. Commissioner Miller then asked how many people would suggest that the cities and counties do absolutely nothing in the event of a flood and the count was 0.

Commissioner Gordon commented that if the Board rejects Ordinance 38, there would be a strong possibility that each affected jurisdiction would launch their own building moratoriums. Councilman Becker added that, as an alternative, retention systems could become a requirement in obtaining building permits in the basin. He stated that this approach would prevent any further runoff problems, but would do nothing to improve the present situation. He also added that a moratorium/retention approach would be more costly than the plan proposed in Ordinance 38 in addition to being less effective.

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Commissioner Miller closed the public hearing and requested that any additional comments be submitted in letter form to the MSD office for inclusion in the records. He then announced the second public hearing date on Ordinance 38 for April 28, 1976, at Gresham City Hall.

The meeting was adjourned at 9:50 P.M.