



METROPOLITAN SERVICE DISTRICT

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

MSD BOARD OF DIRECTORS

MEETING OF APRIL 28, 1976

BOARD MEMBERS IN ATTENDANCE

Commissioner Ray Miller, Chairman
Mayor Miller Duris, Vice-Chairman
Commissioner Mel Gordon
Mayor James Robnett

STAFF IN ATTENDANCE

Charles Kemper
John Hankee
Jean Woodman
Connie Eliason
Bruce Henderson

APPROVED METROPOLITAN
SERVICE DISTRICT
BOARD OF DIRECTORS

ACTION NO. 26-521

DATE 5-14-76

BY Jean M. Woodman
CLERK OF THE BOARD

MINUTES

Commissioner Miller called the second public hearing on Ordinance No. 38 to order. A quorum was not present at that time. Mr. Miller asked Mr. Hankee to read into the record some testimony which had been received in the mail. Mr. Hankee proceeded to give a general summary of each letter. The letters are attached and made a part of this record.

Mr. Hankee explained the ordinance to the audience.

Commissioner Gordon asked about the absence of an enforcement clause in the ordinance. Mr. Hankee stated that the enforcement clause was included in the MSD enabling legislation (ORS 268). Commissioner Gordon felt that the enforcement clause should be included in the ordinance itself.

Ray Miller opened the floor to public testimony stating that there would be a quorum shortly. The following people addressed the Board:

Martha Boettcher
6708 SE May St.

(Citizen/Overland Park Neighborhood League Representative)

Mrs. Boettcher, in reference to Section 10C of Ordinance (Easements/Condemnation), stated that notices should be sent to all property

owners affected requesting that they clean and maintain their portion of the creek. She felt that most citizens would be cooperative if they were informed of this particular section of the ordinance. She then added, in reference to Section 11 (Collection of Service Charges), that a Board of Equalization should be used to handle all remonstrances and service fee adjustments. Mrs. Boettcher expressed her disappointment in the Board of Directors as she felt it had not fulfilled its obligations by enforcing the creek maintenance by property owners.

(Mayor Miller Duris arrives) Commissioner Ray Miller declared a quorum present. Commissioner Gordon made a motion to read the ordinance by title only and Miller Duris seconded. The motion passed unanimously. Mr. Hankee read the ordinance by title.

Commissioner asked if everyone in the audience had a copy of the ordinance who wished one. There was no response. Public testimony continued as follows:

Sue DeVoe
6540 SE 142nd
(property owner)

Ms. DeVoe asked if there were any other sources of funding available other than a service fee. Commissioner Gordon answered that the Federal Government was in no position to loan or grant any money as it was already \$17 million dollars over it's budget. Ms. DeVoe stated that she would support the program provided it guaranteed plans for a long range solution. She also expressed concern that no guarantee had been made that the rates would not increase after the ordinance went into effect. She said she would grant easement of her property for the purpose of cleaning up the creek but would not allow it for a greenway project. Ms. DeVoe concluded that she would like to see the program go to a vote of the people.

Ernestine Francisco
11727 SE Brookside Dr.
(property owner)

Ms. Francisco, a resident of the area for 25 years, was in favor of Ordinance 38, however she felt a little reluctance that the ordinance was not going to a vote of the people. Mr. Hankee explained that the cost of an election is more than the MSD can afford.

Ms. Francisco asked the Board if they were in favor of Ordinance 38. Commissioner Miller responded that he was in favor of the program and added that the public hearings were being held in order to hear what the public felt so that a fair and comprehensive decision could be made. Commissioner Gordon also commented that he was very open-minded on the subject, and was still weighing the testimony of the public.

Ms. Francisco continued by raising legal questions relating to the upper basin residents' responsibility to the lower residents' flooding problems. She felt the increasing development in the basin was the cause of the flooding and that these legal questions should be answered. Commissioner Gordon asked what her feelings were towards the people who knowingly buy property in the flood plain. Ms. Francisco responded by stating that it wasn't the home destruction that was of so much concern, but rather the destruction of the entire area (erosion, water quality, sediment, etc.).

Fran Finney
3024 SW Florida Ct. #C
(Columbia Group of the Sierra Club)

Ms. Finney, speaking as a representative of the Sierra Club, gave full support to Ordinance 38, saying that it was an environmentally comprehensive project and adding her approval of the use of a Citizens Advisory Committee for the project.

George Lake
Rt. 4, Box 1658
(citizen)

Mr. Lake was opposed to Ordinance 38 because he felt that cleaning the creek would solve the problems and would alleviate the need for more taxes. He continued by explaining that he owns 6 acres of land on the creek and at one time his property used to flood every year. Mr. Lake added that there was a switchback in the creek near his property and he took a bulldozer in and straightened it out one year. He stated that he has not had any flooding problem since. He also said that he cleaned out the brush and debris out of his neighbors portion of the creek claiming to have solved his flooding problem also.

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Ray Phillips
2226 SE 142nd
(citizen)

Mr. Phillips was opposed to Ordinance 38. He felt that any tax levy should go to a vote of the people. He was opposed to Section 8 of the ordinance saying that the service charge should also be voted on rather than being set by the Board of Directors. Mr. Phillips expressed concern that there were no plans for a continuing program. In opposition to Section 12 of the ordinance, Mr. Phillips added that the proposed citizens advisory committee should be voted in by the people and not appointed by the Board.

Edgar Rucker
6007 SE 190th
(citizen)

Mr. Rucker was strongly opposed to Ordinance 38. He felt that the proposal should go to a vote, and added that he would begin petitioning against the ordinance if the Board adopts it.

Verl Shaul1
19019 SE Powell
(citizen)

Mr. Shaul1 was very firm in his stand against Ordinance 38. After a detailed presentation against higher taxes in general, Mr. Shaul1 suggested the Board contact high federal officials in an attempt to obtain federal tax dollars to fund the program as he felt our U.S. taxes were being "given away" in foreign countrys. Mr. Shaul1 concluded by saying that people should not buy property on the creek anyway and that if they insist on doing so, the flooding is their own problem.

Willis Witter
635 SE Park Dr.
(citizen)

Mr. Witter was opposed to the idea of measuring the amount of impervious surface on a piece of property. He felt that this process would cost a lot of money which could otherwise be used on cleaning up the creek. Mr. Witter said he would support a proposal to straighten switchbacks and maintain a clean up program in the creek.

Leo Beckman
620 SE Overland
(citizen)

Mr. Beckman was opposed to the proposal. He felt that the debris in the creek was the cause of the flooding and that there should be ordinances in each jurisdiction restricting anyone from disposing debris in the creek. He disagreed with the idea of taxing residents for the creek bed property when it belongs to the state. He added that this also meant that the public could trespass in the creek, throw their litter in it, and the residents on the creek would be the ones who have to pay to maintain it. Mr. Hankee explained that the creek bed is privately owned and that the water is state owned, adding that the public cannot trespass without the property owners permission.

Mr. Beckman concluded by saying that he could keep his own property and creek clean without any tax. He also suggested the possibility of putting welfare and unemployment benefit recipients to work cleaning out the creek.

Shirley Vandermosten
625 SE Juniper Ct. West
(citizen)

Ms. Vandermosten stated that she did not ever use the creek and felt she never would even if a greenway plan was implemented. She suggested the use of dry wells on each property instead of the large detention basins and reservoirs. She agreed that something had to be done, but could not personally justify paying taxes for a greenway plan.

Lucille Karger
12938 SE Foster Road
(citizen)

Ms. Karger was opposed to the ordinance. She added that she is a retired property owner and cannot afford anymore property taxes on her fixed income.

Walter Zerman
12728 SE Sherman
(citizen)

Mr. Zerman wanted to know how the District had determined the boundaries of the basin. Mr. Hankee explained that data from the USGS well log data was used to determine the contours of the basin (at 10' intervals). Mr. Zerman argued that the process used was not accurate enough to determine the exact contributors to Johnson Creek runoff. He explained a process of putting dye into the water at the upper reaches of the basin and following it down to determine the exact route of runoff. Mr. Hankee stated that this would be impractical as the dye would not be visible by the time it reached the creek. He added that there wasn't any method which could be absolutely accurate and that the contour maps probably come the closest.

Ralph Houston
33535 SE Bluff Road
(citizen)

Mr. Houston was against the ordinance because he felt he has been taxed enough.

Lee Caldwell
27731 SE Haley Rd.
(citizen)

Mr. Caldwell was opposed to Ordinance 38. Since Johnson Creek is private property, he felt that it is the property owners problem to solve the problem.

Doris Martin
6905 SE 134th
(citizen)

Ms. Martin did not feel that the runoff was that big of a problem. She added that if the debris was cleaned by the property owners, the flooding would be considerably controlled.

Col. C.E. Allesina
Rt. 3, Box 228
(citizen)

Mr. Allesina felt that there had been too much talk on Johnson Creek.

He disagreed with the testimony given by Mr. Lee Caldwell who had stated that the problem belonged to the property owners. Mr. Allesina argued that the people in the upper elevations who cut down trees and tear out brush are destroying the natural regulating system for runoff and are therefore responsible for part of the flooding. He also felt that the WPA project of 1934 is responsible for a major bottleneck at the Lents area of the Creek caused by a rock wall installed by them in an effort to reinforce the channel. Mr. Allesina was in favor of property owners maintaining their own property along the creek, but felt everyone in the basin should bear the cost of developing a workable drainage plan. He supported Ordinance 38.

At this point, the Board requested a show of hands of all people present who actually lived on or adjacent to Johnson Creek. The count was 26. The Board then asked for a show of hands of those who lived on the upper elevations of the creek. The count was 22. A poll was then taken to determine the amount in favor and opposed to the ordinance. The count was as follows:

43 - opposed
9 - in favor

The Board asked who of those living on or adjacent to the creek would be opposed to the plan. The count was 15. Total attendance at the hearing was 58.

Public testimony continued as follows:

Jacqueline Smith
11801 SE Brookside Dr.
(property owner)

Ms. Smith stated that the property she owns on Johnson Creek is loosing soil and that she would be in favor of a clean up of the creek.

Mel Peters
8563 SE Flavel Dr.
(citizen)

Mr. Peters was opposed to Ordinance 38 as he felt the taxpayers money would be spent only to improve the value of private property.

Hans Otto
9500 SE 242nd
(citizen)

Mr. Otto was opposed to the ordinance. He felt that the problem with the flooding was due to heavy sedimentation and that controlling the runoff rate would not solve the problem. He was against paying more taxes.

Ray Bechtoldt
19801 SE Powell
(citizen)

Mr. Bechtoldt was opposed to the ordinance. He argued that the tax lots were too vague and that he was unsure what his tax rate would even be. He added that people with storm drains on their property should be paying more than people who have installed dry wells on their property. He questioned whether the cities and counties would be responsible for paying taxes on area covered by roads and highways.

There was no further testimony from the audience.

Commissioner Gordon stated that he had spoken briefly with Representative Rick Gustafson by phone and that Mr. Gustafson had determined that most citizens want to take care of the flooding on a one shot basis and that they are opposed to a tax without a vote. Commissioner Gordon recommended that the staff investigate the following questions as a possible alternative in the event one is needed:

1. What would be the cost of a "one-shot" home purchasing program? Is it a reasonable cost and how does it compare to the cost of the staff's proposed program?
2. Will it be necessary to also purchase some commercial and industrial land? If so, how much will it cost?
3. Will a "one-shot" program serve to solve the flooding problem over the long-term or will it merely delay other necessary measures for a few years?
4. What supplementary measures would be required in the one-shot program (e.g. dikes; control of development in the basin; require property owners to install runoff collection systems, etc.)?

5. Would the program adequately protect public facilities such as roads, power lines, telephone lines, sewer systems, etc. from flood damage?

Commissioner Gordon asked the staff to obtain this information in order to compare it to the present proposal. There was no opposition from the rest of the Board on this suggestion.

Commissioner Gordon wished to go on record as having not made any decision on the proposal one way or the other and that he was still open for comments from citizens.

Mayor James Robnett wished to make a statement supporting some sort of procedure that would grant a tax break or a tax credit to people who implement their own retention systems on their property.

Commissioner Miller announced that the Board of Directors will meet on May 28th at their regularly scheduled time and place in order to take action on Ordinance 38.

The meeting was adjourned at 9:30 P.M.

Tapes of this meeting are kept on file at the MSD offices.