



City Hall
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April 28, 2022

Mr. David J. Britton
BRITTON LAW OFFICE, PLLC
535 Dock Street, Suite 108
Tacoma, WA 98402

Sent via first-class mail and electronic mail

Re: Hopkins Drainage District No. 2
Public Records Act Records Request

Dear Mr. Britton:

We are in receipt of your letter dated April 12, 2022. Upon review, we do not agree with, nor have you provided sufficient basis or evidence supporting your assertion that increased flooding of the District's drainage system is caused by increased impervious surface created by the Preserve Developments or that the Preserve Developments benefit from the District's maintenance of Hopkins Ditch. The City does not have authority to spend City utility funds in the manner you propose on non-City facilities outside of the City's jurisdictional boundaries.

After reviewing relevant statutes, the City also believes that any assessment the District proposes to assess would need to be equalized over all properties in the District, not just the properties located outside of the District in Tumwater. See RCW 85.06.130; 85.32.050. Even if your allegations that these properties have contributed to flooding due to the acts of God that occurred in January, we do not believe that the District may lawfully assess only properties in Tumwater without also assessing properties in the District who would receive an improper benefit from having the burdens of maintaining the District's facilities borne by those outside the District boundaries. Such a result raises significant equal protection issues.

To better review the claims and allegations made in your April 12th correspondence, the City is making the following Public Records Act records request:

- 1) All maintenance records, flow analyses, drainage studies and/or reports, hydrologic assessments, elevation surveys, photographs, upstream analysis, and flood complaints for the past fifteen (15) years;
- 2) Copies of Ditch Districts rolls of rates and charges for the past fifteen (15) years, and any documents relative to the development of assessments for the properties within the District;
- 3) Copies of any drainage reports for new development(s) within the Ditch District for the past fifteen (15) years;

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Re: Hopkins Drainage District No. 2 – Records Request

- 4) Copies of the District's annual budgets for the past fifteen (15) years;
- 5) Any and all documents regarding how maintenance decisions have been made over the past fifteen (15) years and what decisions were made with respect to maintenance for the past fifteen (15) years;
- 6) Copies of all District meeting minutes for the past fifteen (15) years;
- 7) All reports regarding evaluation of maintenance needs for District facilities and all maintenance estimates, contracts, locations of work performed, and results of work performed for the past fifteen (15) years;
- 8) Any filings, actions, and resolutions of the District for the past fifteen (15) years;
- 9) Copies of all documents referenced in the letter dated April 12, 2022, from Britton Law Office including the estimate used to come up with the \$360,500 figure, all records used in the formation of that estimate, and any records provided to or from Clear Creek Solutions, Inc.
- 10) Copies of all invoices and warrants paid for any maintenance activity of the District.
- 11) Copies of all invoices submitted by Britton Law Office for the previous three years.
- 12) Any comments provided by the District to any public agency concerning drainage from new development within the past fifteen (15) years.
- 13) Any Audit Reports received from the Washington State Auditor for the past fifteen (15) years.

We look forward to receiving the requested records. These documents are critical to the City's review of your claims that a \$360,500 assessment is needed against the citizens in the Preserve and adjacent neighborhoods. Such information is needed prior to any public hearing on any proposed assessment. As such, this request is time sensitive. We are copying the District to ensure prompt receipt and processing of this Public Records Act request as required by RCW 42.56.520. If there is a need to release the records in batches due to the amount requested, we would ask that you release the most recent records first.

Very truly yours,



Karen Kirkpatrick
City Attorney

Cc: Mike McManus, Hopkins Drainage District No. 2 Commissioner
Mat Jackmond, Hopkins Drainage District No. 2 Commissioner
Thomas Thorning, Hopkins Drainage District No. 2 Commissioner
Dan Smith, Water Resources & Sustainability Director
John Doan, City Administrator