

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: November 3, 2015 Time: 10:30 AM Length: 30 min.

Presentation Title: Tualatin River Dock Easements
Department: Business and Community Services - Property Resources Division

Presenters: Rick Gruen, Property Resources Mgr; Lindsey Wilde, Property Resources Agent

Other Invitees: Nate Boderman, County Counsel; Mike McCallister, DTD; Scott Caufield, DTD; Dan Chandler, County Admin.

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Review and approve the draft Board Order for Tualatin River Dock Easements. The easements will provide the means for qualified upland property owners to build docks and gangways across county-owned tax foreclosed parcels along the Tualatin River.

EXECUTIVE SUMMARY:

Clackamas County owns significant sections of the bed and banks along the Tualatin River upstream and downstream of Stafford Road, and below the ordinary high water mark (submerged/submersible land). Most of the property was acquired through tax foreclosure many decades ago. Other sections are remnants from right of way acquisitions.

The property has little economic value for the County, but has some value as habitat.

Some upland property owners have docks and gangways that sit on or above the county-owned property. In some cases this presents permitting issues: the upland property owner can't apply for permits without either permission or an ownership interest in the property below ordinary high water.

In the past, the County has granted limited-term easements for docks and associated gangways. However, this creates an ongoing management issue as these limited-term easements expire. The Board of Commissioners has directed staff to identify and develop a long term solution. Staff from BCS, DTD, County Administration and County Counsel considered conveyances, leases or easements and determined it is in the best interest of the County and public to retain these assets but provide the means for granting a permanent easement for docks and gangways. Staff has developed the necessary processes for adjoining property owners to seek land use approval, building permits and easement.

A draft Board Order for Tualatin River Dock Easements has been prepared for review and approval

FINANCIAL IMPLICATIONS:

There will not be any significant financial gain from granting the easements on these parcels. Property Resources will seek to cover the administrative and recording costs associated with the easement. This would be in addition to any application fees related to land use and building permits. The applicant would also be responsible for the costs associated with providing a survey as part of the land use conditional approval and easement process.

LEGAL/POLICY REQUIREMENTS:

County Counsel has researched the legal requirements to grant an easement and structured the easement template to protect the County's legal interests. The Director and Deputy Director for Business and Community Services will have delegated authority to sign the easement on behalf of the County consistent with current Property Resources policy regarding tax foreclosed properties.

PUBLIC/GOVERNMENTAL PARTICIPATION:

BCC has previously discussed the dock compliance concerns at an April 15, 2014 study session.

OPTIONS:

1. Approve the draft Board Order for Tualatin River Dock Easements as provided in Attachment A.
2. Modify the draft Board Order for Tualatin River Dock Easements
3. Consider an alternative conveyance method

RECOMMENDATIONS

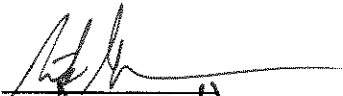
Staff recommends the Board of County Commissioners accept Option 1 and approve the draft Board Order for Tualatin River Dock Easements. Acceptance would provide the conveyance of a permanent easement to qualified property owners to build docks and gangways across county-owned tax foreclosed parcels along the Tualatin River.

ATTACHMENTS:

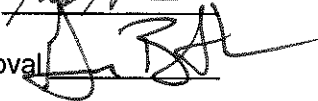
Attachment A – Draft Board Order for Tualatin River Dock Easements

SUBMITTED BY:

Division Director/Head Approval



Department Director/Head Approval



County Administrator Approval _____

Fiscal Impact Form

RESOURCES:

Is this item in your current work plan and budget?

YES

NO

START-UP EXPENSES AND STAFFING (if applicable):

N/A

ONGOING OPERATING EXPENSES/SAVINGS AND STAFFING (if applicable):

The Property Resources division is not funded by the County General Fund. There may be some minor expenses in preparing draft deed or easement documents. However, the adjacent upland property owner would be responsible for survey, deed preparation and recording costs.

ANTICIPATED RESULTS:

A policy creating a permanent easement solution for the submerged/submersible tax foreclosed lands will, over time, lessen the amount of staff resources devoted to the issue.

COSTS & BENEFITS:

N/A

ATTACHMENT A

DRAFT BOARD ORDER FOR TUALATIN RIVER DOCK EASEMENTS

Whereas, Clackamas County owns much of the bed and banks of the lower stretch of the Tualatin River as a result of tax foreclosures many decades ago; and

Whereas, a number of upland property owners have long-existing docks on the river; and

Whereas, the Board of County Commissioners desires to create a way for owners to obtain proper building and land use permits for docks in the lower Tualatin River; and

Whereas, property owners need to be able to show a right to use the property in order to obtain land use approvals.

Now therefore, the Clackamas County Board of County Commissioners orders as follows:

1. The Director and/or Deputy Director of the Department of Business and Community Services is hereby authorized to grant easements over County owned portions of the bed and banks of the Tualatin River.
2. Easements shall only be granted for the amount of land reasonably necessary to accommodate a dock and walkway, and in a form approved by County Counsel.
3. Easements may only be granted when property owners have obtained necessary authorizations and building permits.
4. Easements may only be granted to the owner of the adjacent upland parcel.
5. Applicants are responsible for any necessary survey and recording costs, and the County may charge fees sufficient to recover any costs involved in processing the easement, and additional fees to cover costs for after the fact permitting.