

February 4, 2021,

In response to the comments provided by Councilor Lahsene, the authors of the report provide the following information in blue text.

Councilor David Pierce
in consultation with former Councilor Brenda Ruble

January 25, 2021

Heather Kibbey, City Manager
Walt Williams, Mayor
City of Rivergrove

RE: Comments on the Report on Matters Concerning
Operation and Use of the City of Rivergrove 's Stark Boat
Ramp

The Report prepared on Matters Concerning Operation and Use of the City of Rivergrove's Stark Boat Ramp addresses both a written petition as well as other comments raised. The responses to the concerns are those from two Rivergrove residents; one is a current city councilor and Council President and one is previous City Councilor. I appreciate the time taken to gather this information and the effort expended to provide the research in a written format.

Many of the comments offered by the authors, include a conclusion or forecast an outcome. Until that time that the full City Council has reviewed and accepted the conclusions in the report and the City of Rivergrove's attorney has reviewed and signed off on those conclusions, this report should be considered only the perspective of the authors and not City of Rivergrove policy or carry City of Rivergrove authority.

The statements here seem to be that perspectives in the report are the report authors' "opinions." Comments and perspectives come from authorities consulted while preparing the report - Oregon State Marine Board, Department of State Lands, the City's Attorney, Michael Blum - an authority on

Public Trust doctrine, etc. Many were unique responses to our City's boat ramp matters.

The intent was to be as objective as possible. Although the commenter may not agree with some of the information or feel that conclusions or forecasted outcomes may never happen, the authors felt it important to note any possible issues, no matter how seemingly unlikely their occurrence may be. This was done so that Council would have full information to guide their discussions and any decision making they enter into.

The report was never meant to reflect "City of Rivergrove policy" or "carry City of Rivergrove authority". There was never any intent for the Council to adopt any conclusions in the report. The intent of the report was to find out information that would help enable discussion of possible actions the Council could or could not take to improve or mitigate operation and use of the boat ramp.

The report was never meant to be the ultimate authority on the operation or use of the boat ramp. The intent was to provide as much information as possible, given the limited amount of time and legal assistance available. As is noted by attorneys consulted for the report, some public uses and regulations are untested in courts of law. As such, any possibility for legal actions could be one of concern.

It is up to City Council to determine any course of action they wish to implement regarding uses or operation of the boat ramp. If they question any information within the report, then it is Council's duty to gain additional information or clarification in order to make a well reasoned decision.

The City Attorney was consulted during preparation of the report and made some relatively minor suggestions for changes in language, which were included in the report.

General Comments

Responsibilities of Municipal Government:

The role of a City- is to ensure delivery of services and infrastructure required by their individual communities. ... That includes making policy, administering it and acting as a municipal court in quasi-judicial matters. (land use is one such law/regulation).

https://www.orcities.org/application/files/2315/9917/4968/Handbook_-_Chapter_3_Municipal_Officials.pdf

The introduction of land use laws and the advent of zoning came about to address concerns that arose from incompatible uses adjacent to one another. Early examples are location of feedlots adjacent to residential uses. As a result, location and adjacency have always been factors in planning and zoning considerations. These concerns become factors in comprehensive plan designation and are critical criteria in any conditional use or design review. Compatibility starts first with adjacent properties. Where there are incompatible uses, often restrictions and limitations are imposed to protect or alleviate the incompatibilities.

In the case of the boat ramp and the adjacent properties, all properties in Rivergrove are designated as residential. As residential is the prevailing use and only zoning in the city, then it stands to reason that compatibility with residential uses and residential zoning should of highest priority.

The petition submitted to regulate parking and use of the boat ramp was not to close it, but to improve its compatibility with adjacent neighbors. The petition was signed by 28 Rivergrove residents that reside in 19 of the 28 houses or 68% of the homes that serve as the primary access (Tualamere, Dogwood, Marlin streets) for the Stark Boat ramp. [The petition circulated represents the thoughts of immediate residents. We believe Council should hear from all residents of Rivergrove regarding the uses of a public street and a public park resource. It is our understanding that the County will not allow for regulation of parking.](#)

The Stark Boat Ramp is one of 13 access points on the 4.2 miles Tualatin River. It is the only public access point on the Tualatin River between two houses. It is the only access point within less than 20' of a home and the only access point that does not have regulated or defined parking. Attached to this submittal is a pictorial inventory of the 7 closest Tualatin River access points. I have driven to all of these access points and photographed the access, signage and surrounding area.

- 1) Several of the access points are as close as 8 minutes by car from the Stark boat ramp
- 2) Most are located within the confines of large regional or community parks with staff to monitor

- 3) All have defined parking
- 4) All have some restrictions on use

It is from this perspective that I offer the following specific comments on the Report on Matters Concerning Operation and Use of the City of Rivergrove's Stark Boat Ramp. I have numbered the paragraphs by order of appearance and tried to indicate page numbers.

1. Pg. 4-Emergency vehicle access- expand on TVFR comments. Actual comments from TVFR included the following:

"Below are what our new construction deputies go by when they are part of the planning process for new streets and fire department access. This is based on fire apparatus being able to drive around another should there be one parked at an emergency incident.

NO PARKING: Parking on emergency access roads shall be as follows (OFC D103.6.1-2):

1. 20-26 feet road width – no parking on either side of roadway
2. 26-32 feet road width – parking is allowed on one side
3. Greater than 32 feet road width – parking is not restricted"

Dogwood Dr. is 28' of pavement and today would be constructed to allow parking only on one-side.

TVFR did provide information on these CURRENT design requirements for emergency access on newly constructed roads. It is not a requirement for Dogwood Dr., but simply it was provided information about requirements for new streets.

From information available, the County will not allow for regulation of parking. Hence, implementing such parking restrictions seems implausible.

Even if they were, the comment above is predicated on the assumption that the City and the community may want parking on one side of the street to meet the current TVFR design standards for new street construction. If they do, do all City of Rivergrove streets then convert to the new TVFR standard? If so, that eliminates a lot of ability for Rivergrove residents to park on their street. Would all of Dogwood be designated for parking on one side of the street? Which side would that be? Is that desirable by the community as a whole? Do we just use this design standard in certain areas that neighbors consider congested? If a resident had an occasional party, event, or 'garage sale' and that caused congestion, is that a reason to allow parking on

only one side of the street? Could we do that? Who makes that determination? Removing parking on one side of Dogwood would force ramp users to park further away from the ramp entrance and thus impact other residents. It would seem to not solve the problem, but merely move it to a different location further down the street. Also, it's possible that it could cause ramp users to temporarily park in the street right of way to unload, rather than parking and then hauling vessels back to the ramp. This could cause more congestion and possible conflict in the area. It seems there are a lot of questions to be resolved if the City chose to take such actions, if, indeed they are even possible.

2. Pg. 4-Congestion on the street- 68% of those that live on the streets that provide access to the ramp agree that increased traffic and traffic congestion related to the boat ramp is an issue. Park facilities do increase traffic in some cases, particularly this year with people turning to outdoor recreation in this COVID-19 era. Each jurisdiction interviewed noted a marked increase in users this year. The street is a County owned resource serving all of its residents, not just the immediate neighborhood. It is felt Council should hear from all residents regarding any perceived increased traffic or congestion problems.
3. Pg. 4-COVID regulation and Enforcement-I suggest striking the last sentence under this heading as it's a conclusion drawn but not substantiated. Since there is a bank of thick vegetation on either side of the ramp and fences along the property lines of residences next to it, there is very little likelihood that a user would ever approach within 6' of the neighboring property line. It would also seem unlikely that any neighbor would be right at the property line. There is also a drop in elevation from the ramp level and the neighboring properties' back yards. It is approximately 6' or more at the end of the ramp, depending on the river levels. Therefore, it would surely seem 6' COVID-19 distancing recommendations would be maintained.
4. Pg. 5-Signs too small- Agreed need to have adequate signage of the correct size with the correct information for the public to see.
5. Pg. 6-Have Tualatin Enforce Regs- Conclusion drawn does not include specific costs, therefore how can we conclude that the costs are too high. Further are there grants of other mechanism to cover those costs? Specific costs were gathered when the initial inquiries were made several years ago. They were not available when the report was prepared, but the authors' trusted the information provided from former Council members and Mayor. Also, we believe Mayor Williams discussed such an arrangement with Tualatin and found the costs

prohibitive. There are no known grants for enforcement from the Oregon State Marine Board.

6. Pg. 6-City Enforce current policies and levy fines-lack of mechanism, but Cities have police power (power to enact regulation and to fine as a means of enforcement, tree cutting ordinance is an example). This, perhaps merits further investigation. The authors' initial investigation into this was not encouraging nor promising.
7. Pg. 6-Since don't have police dept, etc. puts neighbors in position-Agreed city should Identify rules and have fines for not following. It's unclear how fines would be levied and adjudicated.
8. Pg. 7-Volunteers for policing- Agreed
9. Pg. 7-Unaccompanied minors- Agreed it can be an issue and signage addressing the concern is a start to protect the City against some liability. Realize that whatever regulation that may be considered would also affect Lloyd Minor Park, as the City Ordinance for park operations covers both the park and the boat ramp. Would we want to prevent an unaccompanied minors from using Lloyd Minor Park and the playground?
10. Pg. 7-Other ramps are closed- Cooks Park boat ramp access is closed during the winter months (see photo on the pictorial inventory). The response was in reference to a comment regarding other ramps being closed due to COVID-19 concerns. Apologies, that wasn't made clear. Additionally, it's our understanding that Cooks Park ramp is closed during the winter due to safety, not capacity/use, concerns. The City's ramp doesn't have those concerns, nor is it heavily used in the winter.
11. Pg. 8-Close on Weekends-As noted it is allowable but would need Council approval. That is correct, but the possible results of doing so are reflected in the comments following the initial paragraph. These comments were from authorities consulted and not the authors' personal opinions. It is possible this action could engender legal actions by users, even Rivergrove residents.
12. Pg. 9-Changing closure hours- This is a proposal that may address the concerns of adjacency and compatibility. That is correct, it MAY address those concerns and it is something Council may consider. However, the possible results of doing so are also reflected in the report and were comments from authorities and citizens of Rivergrove. Again, they were not the authors' personal opinions.

13. Pg. 9-West Linn has signs not allowing swimming -Mix of uses is not ideal whether kayak launching or motorized boat launching. [While that is generally correct, the amount of boat launching, particularly motorized, at the ramp is quite small, as noted in the report. OSMB also felt this was a correct assessment, due to the design of the ramp. Those interviewed felt the two uses at our small ramp weren't totally incompatible, and perhaps didn't merit prohibiting swimming or fishing from the ramp. Observations from users and residents have noted most always people move out of the way during any launches.](#)
14. Pg. 10-Use LO rules for parks- Agreed that signage that a mix of uses may be incompatible should be considered. [Perhaps it was not stated clearly, but the intent of the signage would be to note that fishers or swimmers are required to move out of the way to allow launch of vessels into the river. This action could be incorporated in a list of rules for use of the boat ramp.](#)
15. Pg.10-Mix of uses issues- Agreed mix of uses is not ideal and can pose a safety issue. [See the above response.](#)

On the portion of the report that is defined as City Council:

1. Pg. 10-No comment
2. Pg. 11-Yes, the ramp is removed from some of the Riverkeepers maps but it is marked clearly on all of the Tualatin River access maps that are located at each river access point <https://www.tualatinoregon.gov/recreation/tualatin-river-water-trail> Yes, this was noted during discussions. We're not sure how responsive the Riverkeepers would be to remaking or renovating all their signs along the length of the river. We could ask them. It is unclear how significant such actions would be to decreasing boat ramp users.
3. Pg. 11-A point for discussion with the rest of City Council if the Boat ramp issue is taken up again
4. Pg. 11-There are multiple Tualatin River Access points near Stark Boat ramp. In fact, there are thirteen (13) public access points on the whole Tualatin River – which is three (3) access points every mile on average. As noted early on in this letter, I have driven the closest seven Tualatin river access points, timed and marked the mileage; the closest is 8 minutes from the Stark Boat ramp and the farthest is 13 minutes. [That point is well taken. However, the authors have had users note that drive times vary considerably depending on time of day, the day of the week, etc. While we could note other access points are nearby, we felt assigning a specific drive time to them wasn't reliable](#)

information. Mileage distance seems a more valid metric. Also, it's possible some could perceive such redirection of users as discriminating against Rivergrove residents who aren't able to drive to other access points.

5. Pg. 11-Rivergrove has an ordinance establishing hours of operation- Agreed this is an item for further Council discussion as while it has designated hours the other concerns such as manner of use have not been established. Council took some actions to initiate rules for the ramp use, but as best we could find, those have never been written down anywhere or adopted.
6. Pg. 12- Noise from users-The significance of this concern goes back to the compatibility of uses. This is an accessway between two homes in the middle of a neighborhood. Noise is a legitimate concern. As noted by OSMB, we are not the only city with a boat ramp between two residential properties. It is not a unique situation. Users of parks (be it a boat ramp or whatever park facility) will make sounds. Some will consider it noise, some will consider it people enjoying recreating. Kids playing in Lloyd Minor park probably make more noise than the boat ramp users. Should we declare Lloyd Minor Park an incompatible use because some of its users are more loud than others? How would neighborhood parks ever be designated and built, if they were not adjacent to residential properties? The same holds true for schools and playgrounds, as well as other public installations. People choose whether or not they prefer to live next to such public facilities.
7. Pg. 13- As pop grows, too many users- There is a capacity to safe access to the Tualatin in this location. It would be beneficial to all residents for that capacity to be monitored and managed. While there are a few standards developed for capacities related to certain park facilities, and there may be one for ramp access points, the true problem with monitoring or managing that lies with enforcement, which as we know is problematic. Additionally, this is compounded by the fact that the only ramp is access is via 3 public streets. There appears to be no way to limit access to the ramp without also closing down public street use, which seems like a highly unlikely scenario.
8. Pg. 14- Only City of Rivergrove should be able to use the ramp- As noted by the City Attorney, limiting access to Rivergrove only may pose legal problems.
9. Pg. 14- City Employ use of a mediator to resolve boat ramp issues- This may hold some promise. Mediators help to ensure all concerns are heard and acknowledged.

On that portion of the report defined as II. Comments of citizen petition proposals Pg15-19:

1. Should the Stark Boat Ramp come up again as an item for further Council action, each of these items discussed should be pulled out for full discussion of the council. [That is appropriate and the information provided in this section was provided as possible matters for discussion.](#)
2. If the City Council does not plan to further address the boat ramp issues, then this information can stand as the opinion of the authors. [The statement here seems to be that perspectives in the report are the report the authors' "opinions." The comments and perspectives come from authorities consulted while preparing the report - Oregon State Marine Board, Department of State Lands, the City's Attorney, Michael Blum - an authority on Public Trust doctrine, etc. Many were unique responses to our City's boat ramp matters.](#)

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On the portion of the document defined as III Regulations and their Defintions Pg. 20-23:

1. There is no mention of zoning in this portion of the report. As noted earlier, all property in Rivergrove is zoned residential. Under zoning law, there are allowed uses, there are prohibited uses and there are conditional uses in each zoning category. A conditional use is one that requires certain conditions to ensure compatibility with surrounding uses. The parks and boat ramps would likely fall into this category. [This matter was brought up previously in 2018 Council discussions of the ramp and its compatibility. An item of testimony requested to know if the boat ramp was a Conditional Use and did the boat ramp need a Conditional Use permit. Mayor Kibbey explained that a Conditional Use is a use out of the ordinary. Rivergrove is a community that is entirely zoned as residential. Conditional use usually requires a permit. However, the boat ramp existed as such before Rivergrove became a](#)

city. The ramp was adopted by the City of Rivergrove in 1975 and was mentioned in the City Council minutes at that time as a boat ramp. Rivergrove's Conditional Use permitting ordinance was not adopted until 2003. According to City Attorney Bill Kabeiseman, the boat ramp is entirely legal.

On the portion of the report defined as IV Boat Ramp History

1. Page 26

Under 2011 add :

GOAL #2: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

- Specifically, to identify land use activities and their effect on the public health, safety and welfare of Rivergrove citizens.
- To ensure orderly and efficient development.
- To establish a planning process, policies and factual basis for all decisions and actions related to the use of the land. [It is our understanding that the designation and use of the boat ramp is not a land planning or land use decision for the City, as is noted in the above response.](#)

In summary, I believe the next steps in this process would be

- 1) Determine whether to edit the report so it can represent all of City Council or have it as input into Council's further discussion of next steps as it relates to the Stark Boat Ramp
- 2) There were a number of ideas for further consideration outlined in the report- those could be summarized for Council consideration and action.

Comments respectfully submitted for your consideration

Susie Lahsene,
Rivergrove City Councilor