

From: David Shafer
Date: Sat, Aug 14, 2021 at 2:37 PM
Subject: Rivergrove Incident Report

August 14, 2021

Dear City Councilors,

I am writing regarding an incident with a resident at the Stark Boat Ramp on Sunday, August 1. That afternoon, our family launched kayaks and paddle boards from the city's boat ramp around 2 p.m. for an afternoon of enjoying a float on the Tualatin River. It was a sunny, warm day with other people out enjoying the river, too. We had a great time. My 10-year old daughter and I finished early and took out our paddle boards. I returned to wait by our car, parked at the park, for my wife and 13-year old daughter who were still out kayaking on the river.

When they came back to the boat ramp around 4 p.m., I went down the ramp to assist them in carrying up the heavy equipment and gear to our car. I opened up the gate to go down to the bottom of the ramp and left the gate open BECAUSE WE WERE IN THE PROCESS OF RETRIEVING OUR EQUIPMENT TO BRING IT BACK TO THE CAR RIGHT ACROSS THE STREET. The equipment consisted of two 40-pound boats, life jackets, paddles and additional gear. We were hot and tired and ready to go home.

As I picked up one of the kayaks and accompanying equipment and started up the boat ramp, my wife and I saw a resident CLOSE THE GATE ON US. I yelled, "Open the gate!" My wife yelled "Open the gate!" We repeated this several times (yelling loudly) as we were bringing up the gear with my 13-year-old, yelling we were trying to bring our boats up and using the ramp. The resident IGNORED US COMPLETELY, and proceeded to complete the closing of the gate on our family. Despite repeated requests, he retreated to his property. What person does this? Why would you close the gate on parents and a kid actively bringing up boats after enjoying an afternoon on the river? I continued carrying the kayak and equipment to the closed gate. I am recovering from an arm injury so the motion of setting down and picking up heavy equipment causes pain. I put down the kayak and equipment, opened the gate, left my equipment there and told this neighbor what I thought about his behavior.

When I went back to retrieve the equipment, another kayaker was walking up the boat ramp. I warned him about this person, and he replied, "Oh yeah. I know about him. HE DOES THAT TO ME ALL THE TIME."

The unkind actions by this resident were extremely upsetting to my wife and daughter who witnessed the whole thing. My family and I were peacefully and lawfully using the boat ramp. This resident obstructed our egress to the street, and when we asked him to correct his action, he didn't.

On June 1, 2021, the city issued the following statement in its newsletter:

MESSAGE TO ALL RIVERGROVE CITIZENS

The City Attorney notes that Citizen enforcement can be problematic. If done properly, it's possible, but more often it does become harassment or worse. He feels that it's best that enforcement be left to professionals. He is not certain he sees a path that would lead to City liability from citizen enforcement, if we've explicitly encouraged citizens not to do so. Residents were warned of such actions in 2018.

However, he notes the reality is that the City could be pulled into a lawsuit, even if there is no path to liability. Although it is likely that such a lawsuit would be covered by the City's insurance coverage, it would still be a potential drain on city resources, which the City cannot afford. For these reasons, the City and OSMB does not condone this sort of activity by our residents. Residents should never take enforcement issues into their own hands.

As our experience and that of other boat ramp users attest, residents continue to violate the city's request to NEVER TAKE ENFORCEMENT ISSUES INTO THEIR OWN HANDS. It is not this person's job to serve as gatekeeper or to close the gate. By doing so, this person was ACTIVELY SEEKING CONFRONTATION and INVITING CONFLICT with people on the ramp. Why is this incident important to the city? Because it's just one example of how problematic the city's policy of a closed gate during operating hours is.

We are asking ourselves, who gets to close the gate? And who gets to decide when to close the gate? Is the city asking us to close the gate 2 feet out? 5 feet? 20 feet? Under what exact circumstances? Surely, it's reasonable to assume that people can leave the gate open when they're in the active process of moving equipment up and down the ramp or engaging in river activities at the bottom of the ramp. What about if I pass through the gate with one daughter to go down to the river but my wife and other daughter are walking 30 feet behind on Dogwood Ave.? Is the city asking me to close the gate on my family while I wait for them and then open it up when they get close?

For the city to define regulations for such situations is an inane and impossible task since there are infinite possibilities.

What I find alarming is that during the Aug. 11 City Council meeting, the mayor acknowledged that he knows that nearby neighbors continue to enforce gate closure in violation of the city attorney's request. In addition, he said on record that the signs he

himself posted on the gate saying “Please Close Gate Upon Entering or Exiting” were never approved by the city council and are in fact illegal. I urge the mayor and city councilors to cease neighbor gate enforcement and to remove the illegal signs.

I know the closed gate during operating hours is under active discussion by the City Council. I’m glad the City Council is reviewing this matter.

I am submitting this incident report for public record so city councilors can see that this is just one example of how problematic it is to have a policy of keeping the gate closed during operating hours. Not only does it invite conflict, it is obstructive and unwelcoming and is a deterrent to the city’s stated Comprehensive Plan goal of improving access to the river. Above all, its mechanical locking pinions violate federal law, the Americans with Disabilities Act.

My wife and I completely support Councilor Pierce’s position to leave the gate open during operating hours. We urge all city councilors to vote in support of such a regulation. Does the city really want to perpetuate a policy that creates fertile ground for experiences like mine and that of other citizens? Let's eliminate the conflict and the complaints to the city and let people peacefully and lawfully enjoy our city’s river access as we have for many years prior to the gate being closed.

Respectfully submitted,
David Shafer
19475 Dogwood Court