

**Rivergrove City Council Minutes
Special Meeting April 22, 2020**

CALL TO ORDER AND ROLL CALL The meeting was held electronically via Zoom because of the Covid-19 threat.. Meeting began at 7:09 pm.

PRESENT: Mayor Williams, Council President Ruble, Councilors Tuttle, Pierce and J. Williams

CONSENT AGENDA

None

UNFINISHED BUSINESS

None.

NEW BUSINESS

The purpose of this special meeting was to decide whether to leave the boat ramp closed or to open it. If the decision is made to open the ramp, under what conditions would that be done?

Mayor Williams started the meeting by saying that he had studied all of the written testimony submitted. He described his rationale for the closure: to protect the health and safety of the residents of Rivergrove. He told of the many meetings he had attended, including recent electronic mayors' meetings with the governor and discussions of her proclamation of March 24, 2020, that issued a stay-at-home order and closed parks and business throughout the state. He felt a responsibility to protect the health and safety of residents with his actions and only closed the gate after seeing repeated violations of the governor's social-distancing recommendation.

Council President Ruble noted that Council was required to hold a meeting and discuss the matter before any such action was taken.

Councilor Tuttle questioned whether Council should adopt the governor's recommendations first, before considering whether to open the ramp.

Mayor Williams said Council hadn't done that and if they wanted to, that would cover the whole dynamics of the situation.

Council President Ruble said that she understood that the governor's executive order did not apply to federal, tribal or city lands.

Councilor Jeff Williams reminded Council that these are recommendations, not mandates. The Mayor said that most cities are adopting the governor's plan as is. He pointed out that part of that plan says that if people are violating social distance and cities are not able to police that, they may shut down a space.

Councilor Tuttle asked, "What do you determine is a violation of social distance?" He feels that is the crux of the matter. The Mayor related what his experiences were, as he answered complaints about the ramp. First day, no one. Second day, preteens fishing and a paddle boarder right there, within 4 feet of each other. Two other individuals were in the front of the gate. Next day, it was reported but no one was there.

The following day it was two paddle boarders and a kayaker, all trying to get out at the same time, and two people unloading to go down. Although the yellow caution tape was already out there, the Mayor did not take action at that time. Later he closed and locked the gate, waiting for the next meeting to consider what to do.

Councilor Pierce suggested a special meeting and the Mayor agreed. Councilor Pierce wondered if the Mayor had inquired if the individuals at the ramp were family members and the Mayor said that he had asked if they were "together." The Mayor felt that to do nothing would be negligent. The Mayor feels the threat is still there and supports keeping it closed until the threat is gone, but if the community doesn't agree, he is willing to concede.

Council President Ruble made two comments: 1) This decision should have been made by the Council, as per the city's charter which clearly states so; and 2) We have no jurisdiction for anything below the high water mark—the Oregon Marine Board does. That's why, in the past, Rivergrove has not taken action on boat ramp matters when those have come up. The Tualatin River is a navigable river and, as such is protected under the Public Trust Doctrine, which is the oldest doctrine regarding public resources.

Council President Ruble went on to say that in 1931, it was ruled that, under the Public Trust Doctrine, the State has no right to create policies that favor one group over another. Therefore Rivergrove cannot favor one group (boaters) over another (fishermen or paddle boarders). She said that Council should have considered other options first, such as the signage that was to have been put up on the boat ramp in the past, forbidding parking on the ramp. She was not sure it ever got put up. She also noted that there were no signs put up requiring that social distance be maintained, as the other boat ramps have done. She said that Rivergrove must be in alignment with what other ramps around us are doing—Tualatin, for instance, had 70 people that morning on the ramp across from her home. Fishermen saved our waterways from the commercial fishermen, so we must allow fishing. There are a lot of steps that could have been taken, instead of locking the gate immediately, such as email fliers etc. She feels it's important to proceed with caution.

The Mayor said he deferred to her research, but in his view this was a "boat" ramp, not a place for fishing or sunbathing. He explained that was his thinking: to allow those with boats to be able to get them in or out.

Councilor Tuttle asked if there would be further discussion about the governor's recommendations and whether to adopt them or not? Councilor Pierce said there is, mostly because there are other of our park facilities that need to be discussed as well. He felt it was wise to look at the overall executive order first, before addressing the issue of opening the ramp.

Councilor Pierce prepared a proposed **Motion: Authorize City Council to adopt the governor's executive order 20-12 Guidelines for Outdoor Recreation and Travel, and for Council to have authority to close any property or facility where it is very clear that proper social distancing cannot be maintained, only after a Council meeting and discussion on the closure.**" He emphasized that these are guidelines that would allow Council to move forward or not.

Councilor Tuttle: Seconded

Councilor Jeff Williams asked for the motion to be read again.

Mayor Williams asked if all the caution tape currently in place should be removed. Councilor Pierce said that was open for discussion. Councilor Tuttle said that it was up to Council's discretion as to what they want to do. What conditions would Council place on the opening?

Councilor Pierce noted that this was what the "discussions" mentioned in the motion would be.

Mayor Williams called for a vote on the motion.

Yeas: 3

Nay: 1

Abstain: 1

Motion passed 3/1, with 1 abstention

Mayor Williams asked for a motion as to whether to open the ramp. Councilor Jeff Williams suggestion it would be appropriate for Councilors to share their thoughts on the matter, rather than just their decision. The City Manager was asked to summarize the testimony, which had come from over 100 people. She summarized as follows:

Most of those giving testimony wanted the boat ramp open. Of those, some asked that conditions be put in place for safe use. A relative few wanted it to remain closed.

Councilor Tuttle said that if Council were to open the ramp, he didn't think it could be opened unconditionally. He said that a sign should be posted requiring social distancing and if social distancing is not working, the ramp will be closed. He didn't know how to determine if social distancing was not working. He suggested that a notice should include a link where people could comment if social distancing was not working. He would not be in favor of opening it unconditionally, but only in favor of stating the conditions required to keep it open.

As Councilor Tuttle pointed out, although Council must allow certain activities on the ramp, it does have the right to enforce social distancing.

The Mayor felt this was a slippery slope—leading to a difficult enforcement situation.

Councilor Pierce said he did not see other cities enforcing their ramps and wondered why Rivergrove needed to enforce its ramp.

Mayor Williams said, while some boat ramps remain open, a lot of cities have closed their ramps.

Council President Ruble noted the ramp and trails across the river in Tualatin are open and are widely used. Rivergrove should not be considering "policing" but should instead encourage people, especially in this difficult time. She noted that anxiety is high, in this time of Covid-19, and people need to be able to see another person. She said that we have a really sweet little community where people support one another and it's important to keep this in mind.

Councilor Tuttle objects to the word "policing" and would like to see it replaced with "observing."

Mayor Williams pointed out that we are talking about a disease that is so serious, but Rivergrove does not have the ability to stop the spread. He feel particularly responsible for this

matter, since he gets phone calls and emails late at night. Council President Ruble disagreed that he was the sole recipient of many nasty messages—she said she had as well. The Mayor said he stood corrected.

Councilor Pierce said that we hadn't closed the pedway, even though people are not socially distancing there. He noted that he sees people in the park who are not practicing social distancing and we have not chosen to close the park. Nor has the City of Tualatin, although they do have signs that recommend that you practice it. They have no police and no one telling them they cannot use the trail anymore. He didn't think Council needed to be nannies to the world, but it would be wise to let people know of the problem. He asked to read the following, something submitted by someone that rang very true to the councilor, who has had a long career in city and county parks and knows the benefit of outdoor recreation:

"Going to a park and having an open space is pretty crucial to maintaining mental and physical health right now because there's not a lot of things and options to do. The onus is on the public to adhere to these public health guidelines. Parks are experiencing extremely heavy usage at this time and proper 6' distancing is reportedly difficult to maintain. However many park facilities should remain open." Submitted by a colleague from Portland Parks.

Councilor Pierce said that's where he was coming from. People know what the problems are and if they're not practicing the appropriate behavior, that's their issue, not ours. He referred to the governor's executive order, he noted that it required appropriate notice for social distancing, and the onus is on the public to follow it.

The City Manager asked what the governor would be speaking about the next day. The Mayor asked her to forward a link to councilors. He asked Councilor Pierce to

Councilor Tuttle suggested the following motion to open the boat ramp with signage:
Motion: Council will move to open the ramp with appropriate signage as determined by the Mayor and Councilor Pierce.

Councilor Jeff Williams said he had seen public comments calling into question the character and integrity of our Mayor. He believes that the Mayor stepped into a thankless job and should not have been subject to these inappropriate comments. He asked for respect for the Mayor who entered into this job with good intentions. Councilor Jeff Williams also noted that it was not fair to compare news articles about ramps, such as the Willamette Boat Ram shown on KGW, to our little ramp. He reinforced Councilor Pierce's thought that Rivergrove should not be a "nanny force." He felt that closing the ramp would be punishing the majority for actions of the minority.

Mayor Williams interjected that this was not a punishment; it was protection.

Councilor Jeff Williams said he had read all of the testimony and described much of that in favor of the closure was similar to what was heard two years ago, rather than having a coronavirus theme. He reiterated that this vote be taken with respect for the Mayor.

Councilor Pierce said that there were two important issues: 1) that Council needed to remember that decisions were to be made as a team, and 2) that transparency in communication is always important and citizens need to know what Council is doing and how they can participate. Then we take action to do best for the community and for the individuals who live here and everyone.

The Mayor asked Councilor Tuttle to restate his motion.

Motion: I move that we open the boat ramp for use, with signage as determined by the Mayor and Councilor Pierce.

Councilor Jeff Williams seconded.

Councilor Tuttle suggested opening the boat ramp and if the signage was not appropriate, it could be changed. Councilor Jeff Williams suggested opening the boat ramp by 10 am the next morning, without having the opening contingent on signage.

Councilor Jeff Williams suggested that the motion be changed to allow the immediate opening of the ramp, with the sign to follow. Mayor Williams suggested that it be opened within 24 hours.

Councilor Pierce quoted the governor's executive order: "For recreational areas that are permitted to remain open, subject to the executive order, signs requiring social distancing must be posted at all entrances and exits and common areas." So he felt that a sign could be made that evening, ready to open the ramp in the morning. And if the verbiage needed to be changed, that could be done. Mayor Williams and Councilor Pierce agreed to coordinate on sign production.

Councilor Tuttle reiterated the motion: "The boat ramp will be opened as soon as we can put a sign on it and that should be done as soon as possible." Councilor Jeff Williams disagreed and felt that "as soon as possible" was too arbitrary. He suggested, "within 24 hours". Council President Ruble disagreed, saying that was far too late—it needed to be opened no later than the next morning.

Councilor Jeff Williams presented the **final version of the motion:**
I move that the City of Rivergrove public boat ramp shall be reopened on April 23, with appropriate signage indicating the need for social distancing.

Seconded by Councilor Tuttle

Yeas: 5

Nays: 0

Motion passes: 5/0

Mayor Williams asked what to do about continued violations. Council President Ruble said that Council had reached an agreement two years ago with the Clackamas County Sheriff to handle such violations. Councilors agreed to put that on the sign, with phone number.

Councilor Pierce asked which park facilities should be opened for use and it was decided that both parks should be open for walking, but the play structure and drinking fountains should be closed. Caution tape should be left on the bench, with room for sitting if necessary.

Council President Ruble left the meeting at this point because she was not feeling well.

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ADJOURNMENT

Motion: A motion to adjourn was made by Councilor Jeff Williams.

Seconded by: Councilor Dave Pierce

Yeas: 4

Nays: 0

Motion passed 4-0.

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Heather Kibbey, City Manager/ City Recorder