



January 21, 2016

Board of County Commissioner
Clackamas County

Members of the Board:

Approving the Delegation to Business and Community Services
to Grant Easements Over County-Owned Portions of the Tualatin River
and Approval of Terms of an Easement for this Purpose

Purpose/Outcomes	Clackamas County Property Resources manages most of the beds and banks of the lower portion of the Tualatin River due to property tax foreclosures beginning in the 1930's. There are approximately 113 upland property owners directly affected and creating a mechanism, (the easement agreement), would allow these property owners to legally construct and maintain docks along these portions of the Tualatin River.
Dollar Amount and Fiscal Impact	The cost for the easement covers processing and recording costs only.
Funding Source	No General Fund resources are currently allocated to this program.
Duration	Indefinitely
Previous Board Action	A Study Session with the Board of County Commissioners was held on November 3, 2015 and December 15, 2015 to discuss the terms to be incorporated into the easement agreement. An exclusionary clause has been incorporated into the easement agreement as well as termination language.
Strategic Plan Alignment	1. Management of tax foreclosed properties. 2. Build public trust through good government.
Contact Person	Rick Gruen, Property Resources Manager 503.742.4345
Contract No.	N/A

BACKGROUND: Clackamas County's Department of Assessment and Taxation annually forecloses on tax-delinquent properties. The foreclosure process is a six year process – taxes must be delinquent for three years, then a two year judgment is filed and in the sixth year foreclosure occurs and the property is deeded to the County in lieu of uncollected taxes. Following the recording of the deed in the County's name, the management and disposition is then transferred to the Property Resources Division of the Department of Business and Community Services. Property Resources Division is tasked with managing, administering and dispersing of tax foreclosed real property assets in a cost effective manner that will provide a County public benefit. Oregon Revised Statutes provides for Property Resources Division to recover annual operational expenses. No General Fund resources are currently allocated to this program

RECOMMENDATION: Staff recommends Board approval of the proposed Easement Agreement and to Grant Delegation of Authority to Business and Community Services to sign all appropriate documents.

Respectfully submitted,

Gary Barth, Director
Business and Community Services

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This matter coming before the Clackamas County Board of Commissioners at its regularly scheduled public meeting on January 21, 2016 to consider delegating authority to the Department of Business and Community Services to grant easements over County-owned portions of the Tualatin river and approving terms to be incorporated into an easement for this purpose.

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;

WHEREAS, a number of upland property owners have long-existing docks on the river which encroach onto County-owned portions of the Tualatin River; and

WHEREAS, the Board of County Commissioners desires to create a mechanism by which upland property owners may obtain proper building and land use permits for construction and maintenance of docks on these portions of the lower Tualatin River; and

WHEREAS, upland property owners are required to show a right to use and occupy the County-owned property in order to legally construct and maintain dock structures and obtain building and land use permits; and

WHEREAS, on November 3, 2015 and December 15, 2015, County staff presented to the Board of County Commissioners terms to be incorporated into an easement agreement that would enable upland property owners to use and occupy the County-owned property.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

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 be for the limited purpose of siting a private, noncommercial dock and walkway structure.
3. 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.

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4. Easements may only be granted when property owners have obtained necessary authorizations and building permits.
5. Easements may only be granted to the owner of the adjacent upland parcel.
6. Easements shall be exclusive in favor of the owner of the adjacent upland parcel.
7. The easement rights may be terminated by the County upon the occurrence of any of the following:
 - a) Violation of any applicable laws and regulations of any public authority affecting the premises and the use.
 - b) Placement of any sign or other device to the dock located on the premises without the written consent of the County.
 - c) Interference with the full and free use by the public of all waters near the premises.
 - d) Use by any commercial operator of premises or any structure located on the premises.
 - e) Expansion of the dock beyond the boundary of the premises as defined in the easement agreement.
8. Prior to any termination of easement rights, an owner shall have 30 days to cure the default which is the basis for termination, except that the easement may be terminated immediately where the owner has previously been provided notice for a similar default.
9. This easement shall automatically terminate in the event there is a change in the zoning designation that is applicable to the upland parcel.
10. 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 for costs related to permits.

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DATED this _____ day of _____, 2016.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary