

# **Board of County Commissioners**

## **Agenda Request**

Date of Meeting: June 7, 2010

Date Submitted: May 21, 2010

To: Honorable Chairman and Members of the Board

From: Heather J. Encinosa, County Attorney

Subject: Update on Legal Analysis of Oyster Bay Boat Ramp

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### **Statement of Issue:**

This agenda item provides a status update on the legal analysis of the ownership of the Oyster Bay Boat Ramp located on Blue Dolphin Drive and the County's options relating to the boat ramp.

### **Background:**

The County Attorney's Office has been asked to investigate the ownership of a boat ramp located at the end of Blue Dolphin Drive in the Oyster Bay community. Surrounding property owners have requested that the County determine whether the boat ramp is owned by the County and open for use by the public or whether it is privately owned and is restricted from use by the public.

Attached is a portion of the survey of the property showing the boat ramp. The majority of the ramp extends into the middle of the paved cul de sac and is located within the County's right of way for Blue Dolphin Drive. It is not desirable to have a boat ramp in a public road at this location due to safety and liability concerns. However, the remainder of the boat ramp extends into the boat basin which is a separate parcel of property owned by Robert Kornegay and Murrell Kornegay. The boat basin parcel was transferred to the Kornegays pursuant to a deed dated March 27, 2007 (attached). As a result, a portion of the boat ramp is located on the public right of way, but the remainder of the ramp is on private property. In order for a boat to access the canal and ultimately the Bay, the boat would trespass on the basin property which is owned by the Kornegays.

This boat ramp has not been maintained by the County nor is it advertised as a County boat ramp. There are no directional signs indicating that a public boat ramp is located in the Oyster Bay community. Prior to 2003, the ramp was used exclusively by property owners within the neighborhood who each had a special decal indicating their rights to use the facility. Since the closing of nearby public ramps, the public has been using this ramp more regularly and the neighboring property owners have begun to question whether it is open to the public.

The Parks and Recreation Department investigated the possibility of acquiring this boat ramp and purchasing adjacent properties for parking during 2009. However, it was determined that the

channel was not deep enough and the facility did not meet the County's requirements for use as a public ramp.

The Planning Department has investigated the records relating to this property and determined that at the time the plat was recorded in 1975, the basin and boat ramp were not constructed nor were they included in the plat dedication. The Planning Department has not been able to locate any permits for construction of the boat ramp, but the permitting records do not go back to 1975.

The County Attorney's Office is working with the Planning Department, Public Works and the Parks and Recreation Department to identify options for resolving this issue:

(1) One option is to vacate the portion of the right of way where the boat ramp is located. The County's right of way would then terminate at the ramp. The Public Works Department is investigating whether it is possible to vacate that portion of the right of way and still allow adequate access for the parcels on each side of the cul de sac. According to the Plat dedication for roads within Oyster Bay (attached), any rights conveyed by the Developer will revert to the Developer. Therefore, if the County vacates this portion of the right of way, ownership of the ramp will revert to the Developer -- the Kornegays -- rather than to the homeowners' association. In this instance the entire ramp and the basin would be held by a single owner. However, the neighboring property owners are concerned that they will be denied use of the ramp entirely in this case or that they may be required to negotiate easement access rights for use of the ramp with the Kornegays.

(2) If it is determined that the ramp was illegally constructed within the right of way without a permit, as a second option, the County could require either the closing or removing the boat ramp to avoid any potential liability for injuries on the ramp and maintenance costs associated with the facility. This option would remove the boat ramp from the right of way entirely and there would not be boat ramp access to this basin, which would prevent a number of people from enjoying water-based activities in this area.

(3) A final option would be for the County to approach Mr. Kornegay to determine if he would be willing to donate or otherwise transfer his portion of the boat ramp together with a right to access the basin to the County. In that case, the County could either operate the ramp as a public boat ramp or investigate selling the ramp to the homeowners' association. Since this site has been previously considered for use as a public boat ramp, but the Parks and Recreation Department determined it was not suitable, it may be advisable to transfer ownership to the homeowners' association. Any funds recovered by the county could then be invested in a more suitable boat ramp in the vicinity for the public's use. This option obviously assumes Mr. Kornegay would be a willing seller and that the homeowners' association would be a willing buyer. Alternatively Mr. Kornegay and the homeowners' association could be encouraged to negotiate among themselves without county involvement.

Further research and discussions are needed to determine the appropriate course of action for resolving the ownership of the boat ramp which is now partially on County property and partially on private property.

**Options:**

1. Accept the Update regarding the Oyster Bay Boat Ramp.
2. Do not accept the Update regarding the Oyster Bay Boat Ramp.
3. Board direction.

**Recommendation:**

Option #1

**Attachment:**

1. Survey/Property Info