

ORDINANCE NO. 4297

Introduced by Commissioner Noel B. Pauls

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND CITY COMMISSIONERS AND AUDITOR AND POLICE JUDGE TO MAKE, EXECUTE AND DELIVER AN EASEMENT OF THE CITY OF WARRENTON'S INTEREST IN THE REAL PROPERTY DESCRIBED IN THIS ORDINANCE TO SKIPANON WATER CONTROL DISTRICT, A WATER CONTROL DISTRICT ORGANIZED UNDER OREGON REVISED STATUTES FOR THE PURPOSES OF SAID DISTRICT AND CONTAINING A RIGHT OF INGRESS AND EGRESS AND SAVING GRANTEE HARMLESS

THE CITY OF WARRENTON DOES ORDAIN AS FOLLOWS:

Section 1. That the Mayor, City Commissioners and the Auditor and Police Judge be and they are hereby authorized and directed to make, execute and deliver an Easement of all of the City of Warrenton's interest in the following described real property:

A strip of land situated on the east bank of the Skipanon River embracing a width of 50 feet on the left and extending to the low water line on the right of a portion of U. S. Engineers dike traverse of Dike #4. The center line of which is described as follows: Beginning at the U. S. Engineers Station P.O.T.D. 4 50 \nearrow 82.9 located 1540 feet west and 1254 feet north from the south east (SE) corner of section 21, T. 8 N. R. 10 W. of the W.M.; thence S 24° 36' E. 115.4 feet to U. S. Engineers Station D4 51 \nearrow 98.3; thence S 27° 39' E. 294.4 feet to U. S. Engineers Station D4 54 \nearrow 92.7; thence S 27° 40' E. 25.0 feet to P.O.T. Station D4 55 \nearrow 17.7 located on south line of Block five (5), the Centric extension, right of way containing 0.73 acres more or less. Together with a right of ingress and egress by nearest intersecting roadway.

for the purpose of all ingress and egress and use necessary for the construction, operation, maintenance and inspection of a floodwater control structure and dike. Designated as site 8 S (Warrenton) in the plans for the Skipanon River Watershed; to be located on the above described land; for the flowage of any waters in, over, upon or through such structure; and for the permanent storage and temporary detention, either or both, of any waters that are impounded, stored or detained by such structure, for the sum of One Dollar (\$1.00) and other good and valuable consideration. Easement shall contain a reverter clause and a clause providing ingress and egress over and upon any other land adjoining said land, in addition to said land, and a reservation to the City to use the property as long as it does not interfere with the purposes of the Grantee, and a copy of said Easement is on file in the office of the Auditor and Police Judge and is hereby referred to, and all its clauses made a part hereof.

Passed by the City Commission of the City of Warrenton this
4 day of June, 1962.

Approved by the Mayor of the City of Warrenton this 4
day of June, 1962.

[Signature]
Mayor

ATTEST:
[Signature]
Auditor and Police Judge.

EASEMENT

FOR and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the CITY OF WARRENTON, a municipal corporation, does through its City Commission, both for the City of Warrenton and in its capacity as supervisor of Warrenton Diking District No. 2, as Grantor, does hereby grant, bargain, sell, convey and release unto SKIPANON WATER CONTROL DISTRICT, a water control district organized under Oregon River Statutes, Grantee, its successors and assigns, an easement in, over and upon all the right, title and interest of the grantor to the following described land situated in the County of Clatsop, State of Oregon, to-wit:

A strip of land situated on the east bank of the Skipanon River embracing a width of 30 feet on the left and extending to the low water line on the right of a portion of U. S. Engineers dike traverse of Dike #4. The center line of which is described as follows: Beginning at the U. S. Engineers Station P.O.T. D⁴ 50 + 82.9 located 1540 feet west and 1254 feet north from the southeast (SE) corner of Section 21, T. 8 N. R. 10 W. of the W.M.; thence S 24° 36' E. 115.4 feet to U. S. Engineers Station D⁴ 51 + 98.3; thence S 27° 39' E. 234.4 feet to U. S. Engineers Station D⁴ 54 + 92.7; thence S 27° 40' E. 25.0 feet to P.O.T. Station D⁴ 55 + 17.7 located on south line of Block five (5), the Centric extension, right of way containing 0.73 acres more or less. Together with a right of ingress and egress, by nearest intersecting roadway.

This easement shall be for the purpose of all ingress and egress and use necessary for the construction, operation, maintenance and inspection of a floodwater control structure and dike. Designated as site 88 (Warrenton) in the plans for the Skipanon River Watershed; to be located on the above described land; for the flowage of any waters in, over, upon or through such structure; and for the permanent storage and temporary detention, either or both, of any waters that are impounded, stored or detained by such structure.

1. In the event construction on the above described works of improvement is not commenced within one year from the date hereof, the rights and privileges herein granted shall at once revert to and become the property of the Grantor, its successors and assigns, and if at any time the Grantee ceases to use the easement for the purposes set out herein, the rights or privileges herein granted and the easement shall at once revert to and become the property of the Grantor, its successors and assigns.

2. This easement includes the right of ingress and egress at any time over and upon the above described land of the Grantor and any other land of the Grantor adjoining said land.

3. There is reserved to the Grantor, its successors and assigns, the right and privilege to use the above described land of the Grantor at any time, in any manner for dike, road and street purposes and for any other purpose not inconsistent with the use and enjoyment by the Grantee, its successors and assigns, of the rights and privileges herein granted, and the Grantee agrees not to interfere with or obstruct or deprive the Grantor of the continual use of the land described herein for diking, road and street purposes and that such use shall be paramount, but shall not be such use as to interfere with the effective use of the flood water control structure and this easement is void if Grantee does not comply with the terms and provisions herein. Grantor agrees to bear all of the expense and to maintain and repair said roads and streets as may be used in connection with or upon said flood water control structure and to be responsible for any ^{liability} damage to person or property resulting from the construction, maintenance or repair of said road or street.

4. The Grantee is responsible for operating, repairing and maintaining the above described works of improvement.

5. The Grantee shall be responsible for any ^{liability} damage to Grantor's property resulting from the said construction, repairing, operation and maintenance of said flood water control structure.

6. Grantee hereby agrees to hold and save Grantor harmless from any and all ^{liability} damages arising from Grantee's use of the rights, easement and privileges, including the right of ingress and egress, and including personal injury and property damages.

7. This easement is void unless the Grantee submits plans to the Grantor of the flood water control structure and dike and that said plans are signed by both the Grantor and Grantee as satisfactory and the flood water control structure and dike constructed substantially according to said plans, which plans shall be on file with the City of Warrenton and are hereby incorporated herein by reference. Grantor and Grantee herein admit and agree that said plans have been placed on file with the City of Warrenton and have been approved by Grantee and signed by both Grantor and Grantee as satisfactory as of this date.

TO HAVE AND TO HOLD the aforesaid easement in, over and upon the Grantor's interest in the above described land, with all the rights, privileges and appurtenances thereunto belonging or in anywise appertaining unto the Grantee, its successors and assigns forever, except as herein stated.

IN WITNESS WHEREOF, the Grantor, the City of Warrenton, a municipal corporation, acting through its City Commission, has caused this instrument to be executed by its appropriate officers on this 4th day of June, 1962.

CITY OF WARRENTON, an Oregon municipal corporation

By _____ Mayor

By _____ Commissioner

By _____ Commissioner

(SEAL)

By _____ Commissioner

By _____ Commissioner

TRUE COPY OF ORIGINAL

ATTEST:

E. R. Baldwin
Auditor and Police Judge.

STATE OF OREGON)
County of Clatsop) ss.

On this _____ day of _____, 1962, before me appeared HAROLD GRAMSON, E. R. BALDWIN, QUINCY ROBINSON, NOEL B. RAWLS, EARL E. JOHNSON and RICHARD HASKELL, all to me personally known, who being duly sworn, did say that he, the said Harold Gramson is the Mayor, and that he, the said E. R. Baldwin is the Auditor and Police Judge, and the Quincy Robinson, Noel B. Rawls, Earl E. Johnson and Richard Haskell are the Commissioners of the City of Warrenton, a municipal corporation in Clatsop County, Oregon; and that the seal affixed to the said instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed on behalf of said municipal corporation by authority of the City Commissioners of the City of Warrenton, and the said Mayor and City Commissioners acknowledged said instrument to be the free act and deed of the City of Warrenton, a municipal corporation of Clatsop County, State of Oregon.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this my certificate written.

Notary Public for Oregon
My Commission expires: