



## REPORT TO CITY COUNCIL

# — MEMORANDUM —

AGENDA ITEM NO: 7

**COUNCIL MEETING DATE: September 22, 2009**

**SUBJECT: *Second reading, Ordinance No. 2009-04, relating to Animal Control***

### **RECOMMENDATION:**

Staff recommends the approval and adoption of Ordinance No. 2009-04 amending the Animal Control Ordinance, Sections 5-3-1 through 5-3-34 of Title 5, Chapter 3 of the Reedley Municipal Code.

### **BACKGROUND:**

The first reading of Ordinance No. 2009-04 was held at a public meeting on August 25, 2009. The purpose of the ordinance was explained and staff answered questions regarding the ordinance. The amended Animal Control Ordinance includes the necessary provisions to bring the ordinance up to date to protect public health and safety, provide adequate guidelines for enforcement, and make it consistent with the City's zoning ordinance.

### **FISCAL IMPACT:**

Budgeted item: NA  
Expenditure: NA  
Fund Acct(s): NA

Prepared by: SW Chief of Police

Approved by City Manager: RP

Attachment(s): Ordinance No. 2009-04

Motion: \_\_\_\_\_

Second: \_\_\_\_\_

**ORDINANCE NO. 2009-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REEDLEY  
AMENDING CHAPTER 3 OF TITLE 5 OF THE REEDLEY MUNICIPAL  
CODE RELATING TO ANIMAL CONTROL**

THE CITY COUNCIL OF THE CITY OF REEDLEY DOES ORDAIN AS FOLLOWS:

SECTION 1: Chapter 3 of Title 5 of the Reedley Municipal Code is hereby amended to read as follows:

**CHAPTER 3**

**ANIMAL CONTROL**

**Sections:**

- 5-3-1: Definitions
- 5-3-2: Pound Master
- 5-3-3: Impoundment of Animals
- 5-3-4: Trespassing; Seizure
- 5-3-5: Record of Impoundment
- 5-3-6: Duties of Animal Control Officer
- 5-3-7: Authority of Pound Master and Animal Control Officer
- 5-3-8: Animal Care
- 5-3-9: Limits on Number of Dogs and Cats
- 5-3-10: Excessive Noise; Nuisance
- 5-3-11: Animals at Large Prohibited
- 5-3-12: Animal Bites
- 5-3-13: Animals Bitten by Other Animals
- 5-3-14: Bringing Animal into City
- 5-3-15: Dogs: License Required
- 5-3-16: Issuance of License and Tag
- 5-3-17: Rabies Vaccinations Required
- 5-3-18: Impoundment of Unlicensed Dogs
- 5-3-19: Confinement of Dogs Less than Four Months of Age
- 5-3-20: Redemption of Impounded Animals
- 5-3-21: Impoundment Fees
- 5-3-22: Disposition of Impounded Animals; Abandonment
- 5-3-23: Prohibition of Farm Animals and Wild Animals
- 5-3-24: Prohibition of Certain Reptiles

- 5-3-25 Care of Feral Cats and Dogs
- 5-3-26 Feeding of Birds and Wild Animals
- 5-3-27 Commercial Animal Establishments
- 5-3-28 Prohibition of Vicious Animals
- 5-3-29 Procedure to Determine if Animal is Vicious
- 5-3-30 Petition to Declare Animal as Vicious
- 5-3-31 Administrative Hearing
- 5-3-32 Hearing Decision
- 5-3-33 Disposition of Vicious Animal
- 5-3-34 Dogs in Camacho Park and Sports Park

**5-3-1: Definitions:**

The following terms as used in this chapter shall have the meaning ascribed to them in this section as follows:

*Animal:* Any living vertebrate member of the animal kingdom, excluding man.

*Animal Control Officer:* Any person designated by the State of California, City of Reedley, or Fresno County as an animal control officer who is authorized to perform such duties under the laws of this State or this Chapter.

*Animal Shelter:* Any facility that is on property owned by the City of Reedley, operated by a humane society, or a public agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this Chapter or State law.

*At Large:* Shall mean off the premises of the person owning or having the possession, charge, custody, or control of the animal and not under the immediate control of a person by means of an enclosure, leash, rope, chain or other means of immediate effective physical control. At large shall also mean when the animal is on the premises of the person owning or having possession, charge or custody of the animal and not under the immediate effective physical control of said person sufficient to prevent ingress and egress of the animal.

*Bird:* Any member of the bird family, including, but not limited to, parakeets, cockatiels, macaws, parrots, finches, conures and swans, domesticated to serve as a pet.

*Breeder:* Any person, persons or business who breeds two (2) or more litters of dogs in one year for sale or profit.

*Cat:* Any member of the feline family, wild or domesticated, and shall be intended to mean both male and female.

*Commercial Animal Establishment:* Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibit, or boarding kennel.

*Dog:* Any member of the canine family, wild or domesticated, and shall be intended to mean both male and female.

*Domestic Animals:* Animals that are ordinarily permitted in a place of residence and habituated to live on or about the habitations of persons, and kept for company and pleasure.

*Excessive Noise;* Barking, howling, whining, screaming, screeching, squeaking, squawking, or any noise which is loud, frequent, and continual over a period of time and which disturbs the peace and comfort of a person of ordinary sensitivity. The following shall be presumed to disturb the peace and comfort of a person of ordinary sensitivity: (1) excessive noise for a continuous period of ten (10) minutes; or (2) excessive noise for a continuous period of five (5) minutes on three separate occasions within any sixty (60) minute period. Continual shall mean excessive noise with intervals of less than sixty (60) seconds between the noise. Provided, however, it shall not be deemed to be excessive noise if at the time of the noise a person or persons were teasing or provoking the animal or trespassing or threatening to trespass upon the private property of the owner.

*Farm Animal:* any chicken, goat, pig, cow, mule, sheep, horse, duck, goose or other species of bird, fowl, livestock, bovine, porcine, ovine or equine animal commonly kept or raised on a farm, except for dogs or cats that are licensed as otherwise allowed as provided in this Chapter or by state law.

*Fowl:* Any chicken, duck, goose, turkey, guinea, pigeon, peacock or other fowl.

*Hearing Officer:* The Pound Master or any designee of the Pound Master.

*Impoundment:* Shall mean the taking up and confinement of any animal in an animal shelter, veterinary hospital, or other facility.

*Kennel:* Any premises, wherein any person keeps six (6) or more dogs more than four (4) months of age except commercial animal establishments.

*Litter:* A litter shall be defined as two (2) or more offspring from one or more female dogs located at the same premises.

*Livestock:* Any large animal kept or raised for use, pleasure, or profit.

*Owner:* Any person, partnership, firm or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

*Person:* Any individual, partnership, firm, corporation, joint venture or entity.

*Pet:* Any domesticated animal ordinarily permitted in a place of residence, kept for pleasure rather than utility, such as: dogs, cats, birds, guinea pigs, or hamsters.

*Pet Shop:* Any person, partnership, firm or corporation whether operated separately or in connection with another business enterprise except for licensed kennels, that buy, sell, or board any species of animals.

*Pound Master:* Shall mean the Chief of Police, unless the City Manager has specifically appointed another City employee to serve as Pound Master, or the City has contracted for the performance of such services. Whenever the term "Pound Master" is used in this Chapter, it shall include his or her designee.

*Premises:* Shall mean a house, other dwelling, lot, or parcel of land in the City incorporated limits.

*Private Property:* That property on which a person or persons have the exclusive rights of disposition.

*Public Nuisance:* Any animal or animals which:

- A. Molests passerby or chases passing vehicles.
- B. Attacks other animals.
- C. Trespasses on school grounds.
- D. Is repeatedly at large.
- E. Damages private or public property.
- F. Barks, whines, or howls or makes any other noise that disturbs the comfort and quiet of any neighborhood or any person.

*Public Place:* Any park, public building, playground, street, road, alleyway, or other places open to the public.

*Reptile:* Any cold-blooded animal including, but not limited to, turtles, snakes, lizards, crocodiles and alligators.

*Restraint:* A leash not in excess of eight feet (8'), a tethered lead, or a fenced enclosure capable of keeping the animal under the control of a responsible person or within the real property limits of its owner.

*Unlicensed Dog:* Any dog for which the license for the current year has not been paid.

*Vaccination or Vaccination against rabies:* The inoculation of a dog with a canine check embryo origin modified live virus rabies vaccine, or canine nerve tissue killed virus rabies vaccine, approved by a health officer of the United States public health service for use in the prevention of rabies in dogs.

*Veterinary Hospital:* Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

*Vicious Animal:* Any animal, wild or domesticated, that when unprovoked, does any of the following:

- A. Has seriously bitten, inflicted severe injury on, or killed a human being;
- B. On two separate occasions within the prior thirty-six (36) month period has bitten a person causing a less than severe injury;
- C. Has attacked and killed a domestic animal;
- D. On two separate occasions within the prior thirty-six (36) month period has seriously bitten or inflicted severe injury on a domestic animal;

*Wild Animal:* Shall mean any of the following:

- A. Any non-domesticated animal living in a feral state;
- B. Any animal described in California Fish and Game Code Sections 2116 and 2118, or in any addition to Fish and Game Code Section 2118 by regulation of the Fish and Game Commission as provided for in those sections;
- C. Any animal not normally kept as a domesticated animal or pet, nondomestic species when kept, maintained or harbored in such numbers or in such a manner as to constitute the likelihood of danger to the animals themselves, to human beings or to the property of human beings including, but not limited to, alligators, crocodiles, lions, monkeys and tigers;
- D. Any species of animal which is venomous to human beings whether its venom is transmitted by bite, sting, touch or other means, except honey-producing bees;
- E. A vicious animal over which the owner has evidenced a failure to maintain control.

**5-3-2: Pound Master:**

The Chief of Police, in addition to this other duties, shall perform the duties of Pound Master, in the absence of a pound master specially appointed. The Chief of Police shall designate a police employee as the Animal Control Officer. In addition, all police officers of the City are required to perform the duties of the Animal Control Officer as may be required by the Chief of Police.

**5-3-3: Impoundment of Animals:**

The Pound Master, or his designee, shall take up, impound and safely keep any dog, which is found at large contrary to the provisions of this Chapter within the incorporated territory of the City.

**5-3-4: Trespassing; Seizure:**

Any animal, including but not limited to dogs, found trespassing on private property may be taken up and detained by the owner of the private property and turned over to the Pound Master to be disposed of as provided by law.

**5-3-5: Record of Impoundment:**

The Pound Master shall keep a record of all impounded animals, including a description of the animal, the date of receipt, the date and manner of disposal. The Pound Master shall provide the necessary subsistence for all animals that are impounded.

**5-3-6: Duties of Animal Control Officer:**

The duties of the Animal Control Officer shall be as follows:

- A. To take up and impound any dog or other animals (except cats), found at large, staked, or tied in any public place within the City or upon the premises of any person other than the owner of such dog.
- B. To make a complete registry of impounded animals, entering the date of receipt, the breed, color, and sex of the animal, and if licensed, the number of such license and the name and address of the owner.
- C. To notify by mail or phone the owner of any animal, bearing identification, impounded by the Animal Control Officer, and informing the owner that such animal is confined at the Animal Shelter, and specify the amount necessary to reclaim or redeem the animal and the time period which the animal will be held before destroying or otherwise disposing of the animal.

**5-3-7: Authority of Pound Master and Animal Control Officer:**

The Pound Master shall have the same authority and powers as granted to Animal Control Officers. Authority or powers granted specifically to the Pound Master may only be exercised by the Pound Master or his or her authorized designee.

- A. Authority: Each Animal Control Officer shall have, and is hereby vested with the authority of a public officer. An Animal Control Officer may, in the performance of his or her duties, enter upon any property pursuant to law, to ascertain if any of the provisions of this Chapter or any State laws relating to disease, care, treatment, or cruelty to animals are being violated. An Animal Control Officer may issue citations for the violation of the provisions of this Chapter, and State law, or City ordinance in the manner prescribed by the ordinance, and remove animals from said premises if deemed necessary. The authority to issue citations in the manner prescribed by the City shall be alternative to any other authority provided by law.

- B. Police Powers: An Animal Control Officer of the City shall have police powers in the enforcement of this Chapter and no person shall interfere with, hinder, molest or abuse any Animal Control Officer of the City in the exercise of such powers.
- C. Animal Control Devices: In the performance of duties for the control of animals, an Animal Control Officer shall have the authority to employ the use of a tranquilizer gun or other animal control devices in common use with the State of California.
- D. Quarantine of Suspected Animal: Whenever the owner of any animal shall observe or learn that the animal has rabies; has symptoms of rabies; has been exposed to rabies or has acted in a manner that would lead the owner to suspect that the animal might have rabies, the owner shall immediately notify the Pound Master or Animal Control Officer and shall allow the Pound Master or Animal Control Officer to make an inspection or examination of the animal. Whenever it appears to the Pound Master or Animal Control Officer that the animal has rabies or has been exposed to rabies, the animal shall be quarantined until it shall be established to the Pound Master's satisfaction that the animal does not have rabies.
- E. Destruction of Rabid Animals: If the Pound Master determines that an animal has rabies, the Pound Master shall cause said animal to be destroyed in a lawful manner, which may include destroying the animal immediately if this is the only method available to contain the animal.

**5-3-8: Animal Care:**

It shall be unlawful for any owner or person having custody of any animal to permit, either willfully or through failure to exercise due care or control, any cruel acts upon any animal. "Cruel Acts" are defined as follows:

- A. To place, leave or expose, making accessible to animals, any poisonous substance.
- B. To have, keep, or harbor any animal, which is infected with any dangerous, incurable, or painfully crippling condition, except as hereinafter provided. All such diseased or crippled animals with an incurable ailment taken into custody by the City shall be transferred to the Pound Master for impoundment. This section shall not apply to animals within veterinary hospitals or under the care of a veterinarian, or having been diagnosed with any common, incurable disease where impoundment or quarantine is not recommended by a veterinarian.
- C. To fail, refuse, or neglect to provide any animal in their charge or custody as owner or otherwise, with adequate food, drink, shade, sanitary shelter, and protection from weather, or to carry any animal in or upon any vehicle in a cruel or inhumane manner.

- D. To willfully, or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club, or other object, mutilate, burn, scald with any substance, overwork or otherwise abuse any animal as provided In Penal Code section 597, except that a reasonable force may be employed to drive off vicious or trespassing animals.
- E. To hobble livestock or other animals by means of chains, which are composed of, tempered or other permanent wire links.
- F. To drive or work any animal in a cruel manner when such animals is unfit for such work.
- G. To promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, contest, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal or person.
- H. No person shall keep upon any premises, any animals in a foul, offensive, obnoxious, filthy or unsanitary condition.

**5-3-9: Limits on Number of Dogs and Cats:**

No person shall keep, harbor or maintain upon his or her premises within the City more than a total of five (5) dogs over the age of four (4) months, five (5) cats, or any combination of dogs and cats exceeding six (6) unless said person shall obtain a kennel permit in addition to obtaining a license for each dog more than four (4) months of age and shall comply with the kenneling permit requirements of this Chapter, unless said person comes within one of the following conditions:

- A. Upon reasonable showing of necessity to the Animal Control Officer, a person may be permitted to keep a dog or cat on a temporary basis for a period not to exceed thirty (30) days.
- B. Any person keeping, harboring, or maintaining six (6) or more licensed dogs, six (6) or more cats, or any combination of dogs and cats exceeding six (6) upon any premises in the City on the effective date of this section shall be required to obtain a yearly kennel permit from the City and pay any applicable permit fees in order to continue to keep, harbor, or maintain the dogs and/or cats in excess of the limits in this section. The kennel permit shall be obtained no later than ninety (90) days after the effective date of this section, and shall be renewed annually for so long as dogs and/or cats in excess of the limits herein are kept, harbored, or maintained on the premises.

**5-3-10: Excessive Noise; Nuisance:**

- A. No person shall keep or maintain, or cause or permit to be kept or maintained upon any premises within the City limits, any animal which creates excessive noise that disturbs the peace and comfort of any neighborhood or interferes with the reasonable and

comfortable enjoyment of life or property by any person. Violation of this section is an infraction.

- B. No person shall keep or maintain, or cause or permit to be kept or maintained, any animal owned by him or in his possession or under his control, which habitually commits a nuisance upon the property of any other person. Violation of this section is an infraction.
- C. Any person convicted of an infraction under the provisions of this Chapter shall be punishable by (1) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one year of the date of the first violation; (3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one year of the date of the first violation.
- D. If an Animal Control Officer determines upon investigation that there is probable cause to believe that the owner of the animal is maintaining an animal which creates excessive noise, the officer may take the following actions:
  - 1. First offenses. For a first time offense, the officer should issue a warning to the owner of the animal notifying the owner of the excessive noise complaint(s) and inform the owner of steps necessary to correct the problem and the consequences if the owner fails to take corrective steps.
  - 2. Second and subsequent offenses. For a second offense and subsequent offenses, the officer should issue an infraction citation.
- E. Seizure and impoundment. In addition to any other remedy available to the City under this Chapter or the Municipal Code, the investigating Animal Control Officer may seize and impound any animal that is creating excessive noise. The owner of such animal shall be responsible for the costs of impoundment as provided in this Chapter.
- F. Removal of animal from City. Upon a fourth offense within a twelve (12) month period, the animal making the excessive noise shall be deemed a public nuisance and the Pound Master may order the owner to permanently remove the animal from the City limits. A failure to so remove the animal shall be a misdemeanor.

**5-3-11: Animals at Large Prohibited:**

No owner of any animal, except a cat that has been spayed or neutered, shall cause, permit, or allow any such animal to be at large in the City. A violation of this provision is an infraction. An animal that is at large three or more times within a twelve (12) month period shall be deemed a public nuisance and the Pound Master may order the owner to remove the animal from the City limits. A failure to so remove the animal shall be a misdemeanor. The Pound Master shall have

the authority to take up and impound any animal at large, except a cat that has been spayed or neutered.

**5-3-12: Animal Bites:**

- A. Whenever it is shown that any animal has bitten any person, the owner thereof shall, upon notice from the Pound Master, quarantine it and keep it tied up or confined for a period of ten (10) days and shall allow the Pound Master or other authorized official to make an examination of the animal at any time during the period of quarantine.
- B. The owner of an animal that has bitten a person or domestic animal shall, upon demand from any Animal Control Officer, demonstrate to the officer that the animal has been properly immunized with a rabies vaccine in accordance with the provisions of this Chapter or otherwise release the animal to the Animal Control Officer for inspection or quarantine.

**5-3-13: Animals Bitten by Other Animals:**

Whenever any animal shall be bitten by another animal having rabies or showing symptoms of having rabies, the owner of the animal so bitten shall, upon being informed thereof, either destroy the animal, quarantine it and keep it confined for a period of at least six (6) month, or place the animal in the care of duly licensed veterinarian for the purpose of having the standard anti-rabies treatment administered and keep the animal confined for a period of at least three (3) weeks after the treatment has been completed. The Pound Master shall have the authority to quarantine, treat, or destroy the animal so bitten if the owner thereof fails to do so immediately or is unavailable.

**5-3-14: Bringing Animal into City:**

No person shall bring an animal or permit an animal to enter the City if the animal has rabies or has had rabies within six (6) months prior to entering the City, unless the animal has been vaccinated with anti-rabies vaccine, and the owner of the animal has an official tag or other receipt showing that the animal has been vaccinated by a duly licensed veterinarian.

**5-3-15: Dogs; License Required:**

- A. Every person owning, possessing, keeping, harboring or having custody of any dog over four months old shall obtain a license for each dog. The applicable license fee shall be paid annually. The license fees shall be set City Council resolution. Such license shall be obtained, and the applicable license fee paid within thirty (30) days after the day on which a dog reaches four months old, within thirty (30) days after acquisition of a dog if over four months old, or within thirty (30) days of moving into the City. Any person who enters the City intending to reside in the City beyond a period of thirty (30) days, and who has brought a dog with them from outside the City, shall secure a license and pay the

applicable license fee for the dog within thirty (30) days after the person enters the City. A license shall not be issued for any dog unless a valid certificate of rabies vaccination signed by a duly licensed veterinarian showing that the dog has been vaccinated within the prior 12 months is presented and the applicable license fee paid.

B. The license shall be renewed on January 1 of each year thereafter.

C. Exemptions:

1. Service dogs for the disabled. Dogs being raised, trained and used to aid disabled persons shall be licensed without fee. Such dogs shall be either a guide dog, service dog, or signal dog as defined in California Civil Code Section 54.1.

2. Government dogs. Dogs owned and used by the city, county, or other public agencies, including dogs used by law enforcement agencies in the performance of law enforcement activity, shall be licensed without fee.

3. Temporary. Dogs brought into the City for the purpose of participating in any dog show or whose owners are nonresidents or temporarily within the City for a period not exceeding thirty (30) consecutive days need not be licensed.

**5-3-16: Issuance of License and Tag:**

A. Upon payment of the license fee, the City shall issue to the person making the payment a license certificate and a tag bearing the serial number and year for which the license is issued. The license tag must, in all cases and at all times, be fastened to a suitable collar worn around the neck of the dog for which it was issued. Whenever a tag issued for the then current year has been stolen or lost, the owner of the dog for which the tag was issued may request a replacement tag.

B. No refunds or credits shall be made on any license because of the death of any licensed animal or the owner leaving the City before the expiration of the license period.

**5-3-17: Rabies Vaccinations Required:**

A. Every person who keeps or harbors any dog over the age of four (4) months shall have such dog vaccinated against rabies by a duly licensed veterinarian. Such vaccination shall be at intervals of eighteen (18) months if nerve tissue vaccine is used or twenty four (24) months if chicken embryo vaccine is used.

B. Every person bringing any dog into the city which has not been so vaccinated within the time stated above prior to importation, shall cause such dog to be vaccinated within thirty (30) days after its arrival in the city.

- C. On demand of the Pound Master, every person keeping or harboring any dog over four (4) months of age shall exhibit to the Pound Master a certificate of a duly licensed veterinarian certifying that said dog has been vaccinated, the date of the vaccination and the type of vaccine used.
- D. The Pound Master shall impound any dog which has not been vaccinated as required by this section.

**5-3-18: Impoundment of Unlicensed Dogs:**

Any dog upon which the license fee is unpaid, or upon which the owner refuses to pay the license fee, or refuses to have the dog vaccinated as herein required, may be lawfully taken up and impounded by the Pound Master, his designee, or any Animal Control Officer, and it shall be lawful for such officer to enter upon the property of any person for the purpose of enforcing this section.

Any dog taken up and impounded pursuant to this section shall be held at the Animal Shelter. If the owner of the dog fails to take the necessary action to properly license the dog and pay the applicable impound fees to redeem the dog within five (5) days of impoundment, the Pound Master shall cause the dog to be disposed of in any lawful manner.

In addition to the requirements for the license fees, the owner shall also pay redemption and impoundment fees before the impounded dog will be released.

**5-3-19: Confinement of Dogs Less than Four Months of Age:**

All dogs less than four (4) months of age shall be confined to the premises of, or kept under physical restraint by the owner, keeper, or harbored. Nothing in this Section shall be construed to prevent the sale or transportation of a puppy four (4) months old or younger.

**5-3-20: Redemption of Impounded Animals:**

The owner or person(s) entitled to the control of any animal, which is impounded, may at any time prior to the lawful disposal of the animal redeem the animal by paying all applicable fees.

**5-3-21: Impoundment Fees:**

The fees for impoundment and redemption of all animals impounded under this Chapter shall be established by resolution of the City Council.

**5-3-22: Disposition of Impounded Animals; Abandonment:**

- A. All animals impounded under the provisions of this Chapter shall be disposed of as provided by law; provided that no impounded dog shall be disposed of until after written notice has been given by the Pound Master or his designee to the owner of said dog as

provided in this Chapter. If the dog is licensed under the provisions of this Chapter and a City license tag is affixed to the collar of the dog, the notice shall be given to the owner at the address set forth in the City licensing records. If the dog is not licensed and there is no license tag attached to the collar of the dog, no notice need be given, unless the unlicensed dog is impounded pursuant to section 6-3-18 and the dog owner's address is known by the Pound Master or any Animal Control Officer. If no person appears and redeems the dog within five (5) days from the date of mailing of the notice or within (5) days after the dog was impounded, whichever is later, the Pound Master shall cause the dog to be disposed of in any lawful manner.

- B. If any unlicensed dog, or any dog bearing no license tag, is taken up and impounded under the provisions of this Chapter, and is not redeemed within five (5) days of impoundment, the Pound Master may, in his discretion, at any time thereafter, humanely destroy such dog or turn over to the SPCA for disposal.
- C. Except as otherwise provided in this chapter, an impounded animal that is not redeemed within the specified holding period, whether due to a failure to satisfy monetary obligations or otherwise, shall be considered to be abandoned by its owner and shall become the property of the City. Thereafter, such animal may be adopted or euthanized. Abandonment does not relieve the owner's obligation to pay all fees related to the impounding and keeping of the animal.

**5-3-23: Prohibition of Farm Animals and Wild Animals:**

No person shall keep, harbor, or maintain any farm animal or wild animal on any lot or parcel within the City, unless specifically permitted by the zoning regulations of the City or in connection with bona fide schools, colleges, universities, research organizations, zoos, and laboratories engaged in the field of scientific research and education. Any person keeping, harboring, or maintaining any farm animal or wild animal on the effective date of this Chapter shall have ninety (90) days from the effective date hereof to come into compliance with this Section.

**5-3-24: Prohibition of Certain Reptiles:**

The keeping of reptiles in the City is limited to turtles, lizards, and non-venomous snakes no longer than six feet in length. No person shall keep, harbor, or maintain any reptile other than turtles, lizards, and non-venomous snakes no longer than six feet in length on any lot or parcel within the City, except in connection with bona fide schools, colleges, universities, research organizations, zoos, and laboratories engaged in the field of scientific research and education. It shall be unlawful for any person to keep, harbor, or maintain within the City any snake that is determined by the Pound Master to be a nuisance or danger to persons or other animals.

**5-3-25: Care of Feral Cats and Dogs:**

It shall be unlawful for any person within the City to intentionally provide food, water, or other forms of sustenance to a feral cat or feral dog.

**5-3-26: Feeding of Birds and Wild Animals:**

It shall be unlawful for any person to feed any bird or wild animal outdoors in a manner that creates: harmful health and/or sanitation conditions; destruction of property; unsightly or increased slipperiness of sidewalks; animal dependency; attraction of squirrels, rats and/or other vermin; or otherwise creates an unreasonable disturbance, such as noise, so as to disturb the peace and comfort of two (2) or more persons of ordinary sensitivity from different surrounding households.

**5-3-27: Commercial Animal Establishments:**

It is unlawful for any person, firm, corporation, or association to erect, establish, and maintain any commercial animal establishment or pet shop without first obtaining a business license from the City. After inspection and approval of the conditions of the commercial animal establishment by the Pound Master, the required business license may be issued by the City. Such license shall be issued pursuant to City licensing regulations, provided any inspection by the Pound Master and other City officials does not reveal any violation of the provisions of this Chapter, the City Building Codes, Zoning Ordinances, or any other ordinance, rules or regulations.

Every person within the City who owns, conducts, manages, a commercial animal establishments for which a City business license or special use permit is required shall comply with each of the following conditions:

- A. Housing facilities shall be structurally sound and shall be maintained in good repair to protect animals from injury and restrict entrance of other animals.
- B. All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition.
- C. All animals shall be supplied with sufficient good and wholesome food and water as often as the feeding habits of the respective animals require.
- D. Animal buildings and enclosures shall be so constructed and maintained as to prevent escape of animals.
- E. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

- F. Every building or enclosure wherein animals are maintained shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided as required according to the physical needs of the animals.
- G. All animal rooms, cages, and runs shall be of sufficient size to provide adequate and proper housing for animals kept therein.
- H. All animal runs shall be of concrete and provided with adequate drainage into an approved sewer or individual sewer disposal installation.
- I. Any animal shall be taken to a licensed veterinarian for an examination and treatment if so ordered by the Animal Control Officer.
- J. Every violation of applicable regulation shall be corrected within reasonable time to be specified by the Animal Control Officer.
- K. Commercial animal establishments shall comply with all other applicable Reedley codes and ordinances.
- L. All commercial animal establishments may be inspected from time to time by an Animal Control Officer to investigate any complaints of violations of the provisions of this Section.

Failure of the applicant for a license or special use permit to comply with any one of the foregoing conditions shall be deemed just cause for the denial of any business license, whether original or renewal and/or the issuance of a citation for violations pursuant to provisions of this Section.

**5-3-28: Prohibition of Vicious Animals:**

It shall be unlawful for a person to keep a vicious animal. Any animal which has been found to be vicious pursuant to this Chapter, or any other county or city ordinance or any state statute, shall be conclusively presumed to be vicious.

**5-3-29: Procedure to Determine if Animal is Vicious:**

- A. Whenever an animal suspected of being or vicious is reported, an Animal Control Officer shall investigate the circumstances and if the officer finds that the animal has attacked, bitten, or caused injury to any human or a domestic animal, or shows a propensity to attack or bite people or other domestic animals without provocation, the officer shall notify the owner in writing, stating the facts and circumstances. The Animal Control Officer may order that the animal be kept within an enclosure, securely leashed or otherwise controlled.

- B. If the Animal Control Officer has probable cause to believe an animal may be designated as “vicious” under this chapter, and the owner is unwilling or unable to properly contain or control the animal immediately or the animal poses an immediate threat to the safety of persons or domestic animals, the animal may be seized pending the outcome of a hearing or trial and any appeals conducted pursuant to this chapter, or during the period of time the owner needs to comply with any requirements imposed hereunder. Any animal seized hereunder shall be impounded and kept at the Animal Shelter at the owner’s expense.
- C. The animal’s owner shall be charged for all costs incurred or fees applicable with respect to such impoundment unless a finding is made that the animal is not vicious. An animal held under the provisions of this section shall not be released until the owner pays all applicable costs and fees for impoundment and redemption under this Chapter. If the owner refuses to pay such charges, the animal shall be treated as abandoned by the owner, and disposed of pursuant to Section 6-3-22 of this Chapter. Disposal of the animal does not release the owner from his/her responsibility to pay the impoundment charges.

**5-3-30: Petition to Declare Animal as Vicious:**

If an Animal Control Officer has investigated and determined that there is probable cause to believe that an animal is vicious, an Animal Control Officer or the Pound Master may prepare a petition to have the animal declared vicious. The petition may be filed with the Court or the City Manager. If filed with the Court, the procedures set forth in Food and Agricultural Code Sections 31621 through 31624, as those sections may be amended from time to time, shall apply. If filed with the City Manager, the procedures set forth in this Chapter shall apply.

**5-3-31: Administrative Hearing:**

There is hereby created an administrative procedure for the hearing of petitions filed with the City Manager. Hearings for classification as “vicious” shall be conducted as follows:

- A. The owner of the animal shall be given written notice of the hearing, by either first class mail or personal service, a copy of the petition, and notice of the restrictions that will apply to the animal if it is classified as a vicious animal. A failure of the owner to receive notice by first class mail shall not affect the validity of these proceedings. The Animal Control Officer shall also send written notice of the hearing to any alleged victims of the animal.
- B. The owner may waive his/her right to a hearing by filing a written waiver with the Pound Master, whereupon the Pound Master shall make the findings and apply the sanctions provided in this Chapter.

- C. If the animal has not been impounded, the hearing shall be set not less than five (5) working days nor more than thirty (30) calendar days after the notice was mailed to the owner or the owner was personally served. If the animal has been impounded, the hearing shall be set not less than five (5) calendar days after the notice was mailed to the owner or the owner was personally served, and within fifteen (15) calendar days of the date of impoundment. The owner of the animal may agree to an earlier or later hearing date.
- D. If the owner fails to appear at the hearing, the hearing shall nevertheless proceed, and an appropriate order shall be issued.
- E. The hearing shall be conducted before a hearing officer appointed by the City Manager. The Pound Master may not serve as the hearing officer. The hearing shall be conducted informally and the technical rules of evidence shall not apply. The hearing officer shall consider all relevant evidence presented at the hearing. The Animal Control officer filing the petition shall be present at the hearing and shall present evidence that the animal is vicious by witness testimony or affidavits, incident reports, and other records.
- F. In making a determination of whether or not an animal is vicious, evidence of the following may be considered:
1. Any previous history of the animal attacking, biting or causing injury to a human being or other animal;
  2. The nature and extent of injuries inflicted and the number of victims involved;
  3. The place where the bite, attack or injury occurred;
  4. The circumstances surrounding the bite, attack, or injury, including without limitation, the presence or absence of any provocation for the bite, attack or injury;
  5. The extent to which property has been damaged or destroyed;
  6. Whether the animal exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting;
  7. Whether the animal exhibits characteristics or aggressive or unpredictable temperament or behavior in the presence of human beings or dogs or other animals;
  8. Whether the animal can be effectively trained to change its temperament or behavior;
  9. The manner in which the animal has been maintained by its owner or custodian;
  10. Any other relevant evidence concerning the maintenance of the animal; and

11. Any other relevant evidence regarding the ability of the owner or custodian to protect the public safety in the future if the animal is permitted to remain in the City.

**5-3-32: Hearing Decision:**

- A. After the hearing, the owner or keeper of the animal shall be notified in writing of the hearing officer's decision and any orders issued, either personally or by first class mail. The hearing officer shall prepare a written decision within fifteen (15) days after the hearing is concluded, unless the animal has been impounded, in which case the written decision shall be prepared within five (5) working days after the hearing is concluded. The decision of the hearing officer shall be final. A failure of the owner to receive notice by first class mail shall not affect the validity of the proceedings or any decision or order issued.
- B. If the owner or keeper of the animal contests the hearing officer's decision, he or she may, within five (5) days of the service of the decision if service is by personal service, or within six (6) days of service of the decision if service is by mail, appeal the decision of the hearing officer to the Superior Court, Reedley Division, or other court having jurisdiction. The owner or keeper of the animal shall serve notice of appeal on the City by either first class mail or personally on the City Manager. Any such appeal shall be a trial de novo. The determination of the court hearing the appeal shall be final and conclusive upon all parties.

**5-3-33: Disposition of Vicious Animal:**

- A. It shall be unlawful for any person to own, possess, harbor or keep any animal declared to be vicious pursuant to this Chapter or any decision following a hearing conducted pursuant to the provisions of this Chapter.
- B. Any animal declared vicious, if not already impounded, shall be immediately surrendered to an Animal Control Officer, and it is the duty of any Animal Control Officer to take up and impound any such animal.
- C. Any animal declared vicious shall be lawfully and humanely destroyed. The Animal Control Officer shall sign an order authorizing the destruction of the animal no sooner than five (5) business days following the hearing officer's decision declaring the animal vicious.

**5-3-34: Dogs in Camacho Park and Sports Park:**

No dogs shall be permitted in Camacho Park and the Sports Park at any time whether on leash or off leash, except Seeing Eye dogs, police or fire service dogs, or when permitted by the City's park and recreation department for purposes of show or competition. A permit of use shall be

obtained from the City's park and recreation department prior to any show or competition of dogs. A deposit for usage and cleanup will be assessed with said permit.

**SECTION 2.** The City Clerk is hereby directed to cause a summary of this Ordinance to be published by one insertion in a newspaper of general circulation in the community at least five (5) days prior to adoption and again fifteen (15) days after its adoption. If a summary of the Ordinance is published, the City Clerk shall cause a certified copy of the full text of the proposed Ordinance to be posted in the office of the City Clerk at least five days prior to the Council meeting at which the Ordinance is adopted and again after the meeting at which the Ordinance is adopted. The summary shall be approved by the City Attorney.

This Ordinance shall take effect and be in full force thirty (30) days from and after its adoption.

The foregoing Ordinance No. 2009-004 was introduced at a regular meeting of the City Council of the City of Reedley held on the 25<sup>th</sup> day of August, 2009, and was thereafter duly adopted at a regular meeting of said City Council held on the 22<sup>nd</sup> day of September, 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

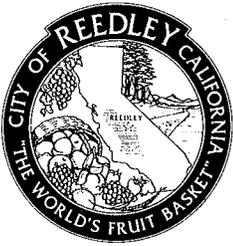
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Mary L. Fast, Mayor

ATTEST:

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Kay L. Pierce, City Clerk



## REPORT TO CITY COUNCIL

# MEMORANDUM

AGENDA ITEM NO: 11

COUNCIL MEETING DATE: August 25, 2009

**SUBJECT:** Ordinance 2009-004, an ordinance of the City Council of the City of Reedley amending the Animal Control Ordinance, Sections 5-3-1 through 5-3-34 of Title 5, Chapter 3 of the Reedley Municipal Code

### **RECOMMENDATION:**

Introduce Ordinance No. 2009-04, an ordinance of the City Council of the City of Reedley amending the Animal Control Ordinance, Sections 5-3-1 through 5-3-34 of Title 5, Chapter 3 of the Reedley municipal Code.

### **BACKGROUND:**

The existing Animal Control Ordinance contains provisions dating back to the 1920s and 1930s. In addition to many of the provisions being outdated, the existing ordinance also does not adequately address the prohibition or limitation of certain animals in residential zones. Finally, the existing ordinance lacks a clear and adequate procedure for the City to deal with vicious animals so as to protect the public safety. As a result, the police department has been faced with numerous challenges in enforcing the existing animal control regulations.

Police Department staff and Fire Department staff are responsible for enforcing the Animal Control Ordinance, and have reviewed the existing ordinance and worked with the City Attorney's office in preparing the amended ordinance. The amended Animal Control Ordinance includes the necessary provisions to bring the ordinance up to date to protect public health and safety, provide adequate guidelines for enforcement, and make it consistent with the City's zoning ordinance.

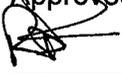
### **FISCAL IMPACT**

Budgeted Item: NA  
Expenditure : NA  
Fiscal Account: NA

Prepared by:

\_\_\_\_\_ Chief of Police

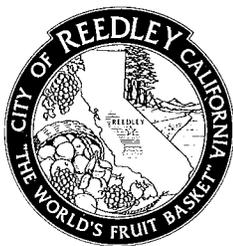
Approved by:

 \_\_\_\_\_ City Manager

Attachments:

09sw

## REPORT TO CITY COUNCIL



# MEMORANDUM

AGENDA ITEM NO.: 8

COUNCIL MEETING DATE: September 22, 2009

SUBJECT: Second Reading - Zoning Ordinance Amendment No. 2009-1 amending Sections 10-6B-3, 10-6C-3, 10-6B-2A, 10-6B-5C, and 10-6C-2A of the Reedley Municipal Code and adding Section 6D to Chapter 6 of Title 10 of the Reedley Municipal Code relating to second units.

### RECOMMENDATION:

Staff recommends the City Council conduct the second reading of Zoning Ordinance Amendment No. 2009-1.

### BACKGROUND:

On August 6, 2009 the City of Reedley Planning Commission held a public hearing to review proposed Zoning Ordinance Amendment No. 2009-1 and recommended approval.

The first reading of Zoning Ordinance Amendment No. 2009-1 was held by the City Council on August 25, 2009. Zoning Ordinance Amendment No. 2009-1 will become effective thirty (30) following the second reading.

### FISCAL IMPACT:

Budgeted item: No  
Expenditure: NA  
Fund Acct(s): NA

Prepared by: OB City Planner

Approved by:  City Manager

### Attachments:

1. Report to City Council, August 25, 2009
2. Ordinance No. 2009-05 for Zoning Ordinance Amendment Application No. 2009-1.

09fw059

**REPORT TO CITY COUNCIL**



**MEMORANDUM**

AGENDA ITEM NO.: 12

COUNCIL MEETING DATE: August 25, 2009

SUBJECT: Public Hearing - Zoning Ordinance Amendment No. 2009-1 amending Sections 10-6B-3, 10-6C-3, 10-6B-2A, 10-6B-5C, and 10-6C-2A of the Reedley Municipal Code and adding Section 6D to Chapter 6 of Title 10 of the Reedley Municipal Code relating to second units.

RECOMMENDATION:

Staff recommends the City Council approve Zoning Ordinance Amendment No. 2009-1 by the adoption of Ordinance No. 2009-05.

BACKGROUND:

Assembly Bill 1866 amends the California Government Code regarding provisions for second dwelling units (AB 1866 attached). The amended provisions mandate that a City may not preclude second dwelling units from being constructed within single-family and multiple-family zoned areas and that local ordinance is not enforceable unless it complies with the minimum requirements of state law. The current provisions in the Reedley Municipal Code are not consistent with state law and are largely not enforceable. The City Attorney's office has provided direction regarding amendments to the Reedley Municipal Code necessary for compliance with the changes approved by AB 1866 (letter from City Attorney's Office dated April 14, 2009 attached). The amendments contained in attached Ordinance Amendment No. 2009-1 implement the provisions mandated by AB 1866 and provide legally permissible local development requirements for construction of second dwelling units within single-family and multiple-family zoned areas.

On August 6, 2009 the City of Reedley Planning Commission held a public hearing to review proposed Zoning Ordinance Amendment No. 2009-1 and recommended approval as stated in attached Resolution No. 2009-4.

Zoning Ordinance Amendment No. 2009-1 is exempt from CEQA review: 15282 – Other Statutory Exemptions.

FISCAL IMPACT:

Budgeted item: Yes \_\_\_ No X  
Expenditure: Ongoing – One Time (pick one or the other)  
Fund Acct(s): \_\_\_\_\_

Prepared by: OB City Planner                      Approved by: \_\_\_\_\_ City Manager

Attachments:

1. City Attorney (Lozano Smith) letter dated April 14, 2009.
2. Second Unit Law as Amended by Chapter 1062, Statutes of 2002 (Assembly Bill 1866).
3. Resolution No. 2009-4.
4. Notice of Exemption.
5. Ordinance No. 2009-05 for Zoning Ordinance Amendment Application No. 2009-1.

**ORDINANCE NO. 2009-05**

**AN ORDINANCE AMENDMENT OF THE CITY COUNCIL OF THE CITY OF REEDLEY APPROVING ZONING ORDINANCE AMENDMENT APPLICATION NO. 2009-1 AMENDING SECTIONS 10-6B-3, 10-6C-3, 10-6B-2A, 10-6B-5C, AND 10-6C-2A OF THE REEDLEY MUNICIPAL CODE AND ADDING SECTION 6D TO CHAPTER 6 OF TITLE 10 OF THE REEDLEY MUNICIPAL CODE RELATING TO SECOND UNITS.**

**WHEREAS**, a public hearing by the City of Reedley Planning Commission was held on August 6, 2009; and

**WHEREAS**, the City of Reedley Planning Commission recommends approval of Zoning Ordinance Amendment No. 2009-1 through adoption of Planning Commission Resolution No. 2009-4.

**THE CITY COUNCIL OF THE CITY OF REEDLEY DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Section 10-6B-3 of the Reedley Municipal Code is hereby amended by repealing all of subsection (G) (“Second dwelling units subject to the following requirements...”) and by renumbering the remaining subsections (H) (“Bed and breakfast inns in accordance with the provisions of Section 10-13-4 of this Title”) to become new subsection (G) and (I) (“Large family daycare home...”) to become new subsection (H).

**SECTION 2.** Section 10-6C-3 of the Reedley Municipal Code is hereby amended by repealing all of subsection (G) (“Second dwelling units subject to the following requirements...”) and by renumbering subsection (H) (“Two-family, three-family, and multi-family dwellings...”) to become new subsection (G).

**SECTION 3.** Section 10-6B-2A of the Reedley Municipal Code is hereby amended by adding a new subsection A.10 to read as follows:

“10. Second units subject to the provisions of section 6D of this Chapter.”

**SECTION 4.** Section 10-6C-2A of the Reedley Municipal Code is hereby amended by adding a new subsection A.10 to read as follows:

“10. Second units subject to the provisions of section 6D of this Chapter.”

**SECTION 5.** Section 6D is hereby added to Chapter 6 of Title 10 of the Reedley Municipal Code (relating to second units) to read as follows:

“CHAPTER 6  
RESIDENTIAL DISTRICTS

**ARTICLE D. SECOND UNITS**

SECTION.

10-6D-1: Purpose  
10-6D-2: Applicability

- 10-6D-3: Permit Required
- 10-6D-4: General Requirements
- 10-6D-5: Development Standards
- 10-6D-6: Development Fees

10-6D-1: **PURPOSE.**

- A. This chapter is intended to implement Government Code Section 65852.2, which mandates that the City permit second units in residential zoning districts and which provides that the City may impose certain regulations on the development of second units.
- B. The City recognizes opportunities to implement certain policies and programs of the City housing element of the general plan by providing for and regulating second units.
- C. Implementation of this article is meant to expand housing opportunities for very low, low, and moderate income and/or elderly households by increasing the number of rental units available within existing neighborhoods. Second units are intended to provide livable housing at lower cost while providing greater security, companionship, and family support for the occupants.
- D. As mandated in Section 65852.2 of the Government Code, second units that comply with this chapter are considered not to exceed the density limits prescribed within this title for residential zoning districts.
- E. For purposes of this article, and as otherwise used in this Title 10, "second unit" shall mean an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following: an efficiency unit, as defined in Section 17958.1 of Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

10-6D-2: **APPLICABILITY.** Where Permitted. Second units shall be allowed in the R and RM zoning districts.

10-6D-3: **PERMIT REQUIRED.** A site plan application in accordance with Section 10-19-2 shall be submitted to and approved by the community development director or his/her designee, prior to issuance of a building permit for a second unit.

10-6D-4: **GENERAL REQUIREMENTS.**

- A. No Subdivision of Property. No subdivision of property shall be allowed where a second unit has been established unless the subdivision meets all requirements of the City's zoning and subdivision regulations (Titles 10 and 11 of this Code). Nothing in this section shall prohibit joint ownership of the property where a secondary dwelling unit has been established.
- B. Constructive Notice. The property owner shall record an instrument, on a form approved by the City Attorney, to provide constructive notice to all future owners of the property of the second unit use restrictions, including the restrictions on subdivision that affect the property. Said instrument shall be recorded in the office of the county recorder prior to

issuance of a building permit for a second unit. Said instrument shall run with the land and be coterminous in tenure with the life of the second dwelling unit. The instrument shall also refer to the requirement that an owner of the property must reside in either the second unit or in the principal dwelling located on the property.

- C. Water and Sewer Service. Second units shall be served by City water and sanitary sewer systems.
- D. Garage Conversions. Garages may be converted to second units provided that:
  - 1. Replacement covered off-street parking which conforms to section 10-12-2 and to the underlying zoning district regulations (e.g., setbacks) is provided for the primary dwelling;
  - 2. Off-street parking for the second unit is provided in accordance with this section; and
  - 3. Converted garages meet all building code requirements for a dwelling unit.
- E. Guest House. A second unit may be developed on a lot containing a guest house (separate living quarters without kitchen facilities). A guest house may be converted to a second unit, provided that it complies with the regulations set forth in this chapter and with the regulations for the underlying zoning district.
- F. Recreational Vehicles, Campers, and Travel Trailers. Recreational vehicles, campers, and travel trailers may not be used as second units.
- G. Non-Conforming Use. Only one second unit shall be permitted on a lot. If a lot contains two single-family dwelling units that were legally-established as a non-conforming use, and were established prior to the effective date of the ordinance creating this chapter, a third dwelling unit, to be considered a second unit, shall not be permitted.
- H. Non-Conforming Primary Dwelling. If the primary dwelling is a non-conforming building as defined by section 10-15-7, an attached second unit shall not be permitted.
- I. Illegal Second Unit. The establishment or continuance of a second unit contrary to the provisions of this chapter is declared to be unlawful and shall constitute a misdemeanor and a public nuisance.

10-6D-5: **DEVELOPMENT STANDARDS.** Second units shall be subject to all development standards of the R or RM zoning district in which the property is located, except as modified below:

- A. Floor Area. The total floor area of an attached second unit shall not exceed thirty (30) percent of the total floor area of the existing dwelling unit area or, in the case of a detached unit, one thousand two hundred square feet. All development on a lot, including second units, must conform to the development standards of the underlying zoning district, including, but not limited to, setbacks, building separations, maximum lot coverage and grading limitations.
- B. Lot Coverage. The entire lot shall conform to the lot coverage limitation of the zoning district in which the property is located.

- C. Height. Attached second units shall conform to the height limits of the underlying zoning district.
- D. Setbacks. A second unit shall maintain the setbacks required in the underlying zoning district for a primary dwelling. Detached second units shall not be considered as detached accessory buildings for the purposes of determining setbacks.

Exceptions: (1) a second unit may be developed above an existing detached garage whose setbacks conform with those for detached accessory buildings; (2) a second unit may be developed above a new detached garage whose vehicle doors are set back five feet from an alley right-of-way.

- E. Building Separations. A minimum separation of ten feet shall be maintained between the primary dwelling and a detached second unit.

F. Off-Street Parking.

- 1. Off-street parking for the primary dwelling shall conform to the current parking standards as set forth in section 10-12-2.
- 2. Off-street parking for the second unit shall be provided as follows:
  - a. One additional off-street parking space, covered or uncovered, shall be provided for each studio or one-bedroom second dwelling unit; two additional off-street parking spaces, covered or uncovered, shall be provided for each second unit with two or more bedrooms.
  - b. The additional off-street parking spaces for second units must be on a paved surface; measure ten feet in width if covered, nine feet in width if uncovered, and twenty feet in depth; tandem spaces may be approved for second units; in the R zoning district, the total amount of paved area for parking and driveways shall not exceed the limits set forth in section 10-12-2.
  - c. Parking spaces for second units may not occupy driveways and back-up areas that serve garages for the primary dwelling, nor may they occupy circular drives or hammerhead turnarounds that serve the primary unit (which are intended to provide means by which vehicles can enter a street head-first).
  - d. Tandem parking for second units may be approved by the community development director.
  - e. Parking spaces for second units may not occupy areas for required rear and interior side yards.
  - f. Primary dwellings with three-car garages may allow one bay and the driveway space in front of the bay to be used for a second unit off-street parking.

- g. If the lot takes access from a collector or arterial street, as designated in the circulation element of the general plan, parking for second units shall not be designed so that vehicles can only back into the street; for this reason, second units may be permitted on any lots that take access from a collector or arterial street, provided safe street access can be provided.
- h. For lots with frontage on only one street, the community development director or his/her designee may deny a site plan application that proposes the situations described below in order to provide access to parking for a second unit:
  - i. The total amount of paving for parking for both the primary and second unit would exceed seventy-five percent of the front yard setback;
  - ii. For lots with access to an alley, a proposal to add a new driveway into a collector street, as designated in the circulation element of the general plan; or
  - iii. For corner lots, a proposal to provide a new driveway that would create a public safety hazard to pedestrians or vehicles.

- G. **Architectural Design.** The design of the second unit shall be compatible with the design and scale of the primary dwelling (using substantially the same landscaping, color, materials and design on the exterior), and shall otherwise be subject to the provisions of section 10-6C-11 of this Title.
- H. **Attached Second Units.** If the second unit is attached to the primary dwelling, each shall be served by separate outside entrances. The interior wall(s) of an attached unit which separates it from the main unit shall be fire-rated according to the most recent uniform building code.

10-6D-6: **DEVELOPMENT FEES.** Since they may be rented, second units, whether attached or detached, shall be considered as multi-family units for purposes of determining City development impact fees.”

**SECTION 6.** Section 10-6B-5C of the Reedley Municipal Code is hereby amended to read as follows:

- “C. **One Dwelling Unit Per Site:** Not more than one dwelling unit shall be allowed on each site except as may be permitted under section 6D of this Chapter.”

**SECTION 7.** Section 10-6C-2A-2 of the Reedley Municipal Code is hereby amended to read as follows:

- “2. **Two-family, three-family and multi-family dwellings in the RM-3 and RM-2 districts.**”

**SECTION 8.** The City Clerk is hereby directed to cause a summary of this Ordinance to be published by one insertion in a newspaper of general circulation in the community at least five (5) days prior to adoption and again fifteen (15) days after its adoption. If a summary of the ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the Council meeting at which the ordinance is adopted

and again after the meeting at which the ordinance is adopted. The summary shall be approved by the City Attorney.

This Ordinance shall take effect and be in full force thirty (30) days from and after its adoption.

**ATTEST:**

I hereby certify that the foregoing Ordinance No. 2009-05 was introduced and given first reading by title only at a regular meeting of the City Council of the City of Reedley held on the 25<sup>th</sup> day of August, 2009, and was thereafter duly passed, approved, and adopted at a regular meeting of said City Council held on the 22<sup>nd</sup> day of September, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mary L. Fast, Mayor of the City of Reedley

ATTEST:

\_\_\_\_\_  
Kay L. Pierce, City Clerk



**REPORT TO CITY COUNCIL**

**MEMORANDUM**

AGENDA ITEM NO: 9

COUNCIL MEETING DATE: September 22, 2009

**SUBJECT:**

*Tract No. 5080, Cottage Glen I and Tract No. 5299, Cottage Glen II Reimbursement Agreement.*

**RECOMMENDATION:**

Adopt Resolution No. 2009-063 approving and authorizing the City Manager to execute the agreement for partial reimbursements for a 21-inch sewer main installed by Tract Nos. 5080 and 5299, Cottage Glen (I & II).

**BACKGROUND:**

On May 24, 2005, the City Council approved and accepted the public improvements for Tract No. 5080, Cottage Glen I, and on August 23, 2005, the Council approved and accepted the public improvements for Tract Map No. 5299, Cottage Glen II subdivisions. The Subdivider, as per agreement for the improvement of said Tract Nos. 5080 and 5299, Cottage Glen (I, II) was required to construct a 21-inch sanitary sewer main and related improvements to serve their proposed subdivision as well as the future benefit area to the west of said Tracts Nos. 5080 and 5299 as shown on attached Exhibits A-1 within the reimbursement agreement.

Attached is Resolution No. 2009-063 authorizing the City Manager to execute the agreement and authorizing the City Engineer and Finance Director to proceed with the partial reimbursement of a 21-inch sewer main installed along the north property line of APN 365-181-23 and in W. Lilac Avenue between S. Reed Avenue and S. Frankwood Avenue.

**FISCAL IMPACT:**

Budgeted item: N/A  
Expenditure: N/A  
Fund Acct(s): N/A

Prepared by: MD Engineering Div  
Reviewed by: EDW City Engineer

Approved by: [Signature] City Manager

- Attachment(s):
1. Resolution No. 2009-063
  2. Agreement For Partial Reimbursement for 21-inch Sewer Main Installed With Tract NOs. 5080 & 5299, Cottage Glen (I & II) Subdivisions

Motion: \_\_\_\_\_  
Second: \_\_\_\_\_

**RESOLUTION NO. 2009-063**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PARTIAL REIMBURSEMENTS FOR 21-INCH SEWER MAIN WITH TRACT NO. 5080 AND 5299, COTTAGE GLEN (I & II) SUBDIVISIONS**

**WHEREAS**, the public improvements for Tract No. 5080 and Tract No. 5299, Cottage Glen (I, II) have been completed and accepted by the City of Reedley; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Reedley, that certain agreement entitled "Agreement for Partial Reimbursement for 21-inch Sewer Main Installed with Tract Nos. 5080 & 5299, Cottage Glen (I & II) Subdivisions" is hereby approved; and

1. That the City Manager is authorized to execute an agreement with the Subdivider of Tract No. 5080 and Tract No. 5299, Cottage Glen (I, II) for partial reimbursements for a 21-inch sewer main and facilities installed benefiting future development.

2. That the City Engineer and the Director of Finance are authorized to proceed with reimbursements to the Subdivider of Tract No. 5080 and Tract No. 5299, Cottage Glen (I, II), at the time and to the extent that other developments occurs on APN's. 365-181-23 & 24, 370-020-31, 49, 50, 51, 52, & 53, 365-220-37 and pay their share of cost due Subdivider of said Tract No. 5080 and Tract No. 5299, all in accordance with said agreement.

This foregoing resolution is hereby approved this 22<sup>th</sup> day of September, 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Mary L. Fast,  
Major of the City of Reedley

ATTEST:

---

Kay L. Pierce, City Clerk

RECORDED BY AND FOR THE BENEFIT OF,  
AND WHEN RECORDED MAIL TO:

City of Reedley  
Engineering Department  
1733 9<sup>th</sup> Street  
Reedley, CA 93654

---

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**AGREEMENT FOR PARTIAL REIMBURSEMENT FOR  
21-INCH SEWER MAIN INSTALLED WITH  
TRACT NOS. 5080 & 5299, COTTAGE GLEN (I & II) SUBDIVISIONS**

This Agreement made by and between the City of Reedley, a municipal corporation, hereinafter referred to as "CITY" and Quiring Properties, Inc., a California corporation, hereinafter referred to as "SUBDIVIDER".

**RECITALS**

I. As a condition of approval of the subdivision of Tract No. 5080 and Tract No. 5299, the Subdivider has installed a 21-inch sewer pipeline located along the northerly line of Lot 8, Curtis & Shoemake Tract in Book 5, Page 11 of Plats, Fresno County Records from S. Reed Avenue to Church Avenue and along W. Lilac Avenue to S. Cyrier Avenue. The City Engineer has determined that said improvements will benefit property as shown on EXHIBIT-A which belongs to others as well as the property being developed by the Subdivider as shown in Tract No. 5080 and Tract No. 5299.

II. The Subdivider has completed the construction of said sewer main facility improvements in accordance with City standards within said streets and/or easements along and within said Tract Nos. 5080 and 5299 and which improvements have now been accepted for maintenance by the City.

III. The State Subdivision Map Act and City ordinances, resolutions and policy provide for partial reimbursement to Subdivider for the cost of construction of public improvements which contain supplemental size, capacity number or length for the benefit of properties belonging to others as well as the Subdivider's property to the extent that other properties are benefited from such improvements.

IV. The actual costs of installation of said facilities have been provided to the City Engineer of the City by the Subdivider and the amount of reimbursement has been calculated by the City Engineer, as set forth in A. below.

NOW, THEREFORE, it is mutually agreed between City and Subdivider as follows:

A. Subdivider is eligible for reimbursement for the following costs of the oversized construction of a 21-inch sewer main public facilities installed as part of the projects described as Tract No. 5080 and Tract No. 5299.

Incremental oversize a 21-inch sewer main from an 8-inch diameter sewer main installed along the northerly line of Lot 8, Curtis & Shoemake Tract in Book 5, Page 11 of Plats, Fresno County Recorders from S. Reed Avenue to Church Avenue and along W. Lilac Avenue to S. Cyrier Avenue.

Lineal feet of 21-inch sewer main installed = 2,378.00 l.f.

Total cost of 21-inch sewer main (per submitted invoice) = \$81,017.75

Cost per lineal foot for a 21-inch sewer main = \$34.07/ l.f.

Estimated cost to install an 8-inch sewer main (per submitted invoice) = \$16,647.00

Cost per lineal foot for an 8-inch sewer main (based on 1,079 lineal feet) = \$15.43/ l.f.

Incremental oversize cost between an 8-inch and 21-inch sewer main. = \$18.64/ l.f.

Total amount eligible for rebate reimbursement from benefit service area. = \$44,329.05

Benefit allocation amount per acre for parcels within the boundary of the service area. = \$260.88/ Ac.

<u>APN's</u>	<u>Benefitted Service Area (Ac)</u>
365-181-23	19.01
365-181-24	57.00
370-020-31(portion of)	38.00
370-020-49	2.31
370-020-50	2.31
370-020-51	35.08
370-020-52	1.81
370-020-53	12.85
365-220-37	<u>1.55</u>
Total benefit area =	169.92 Acres

B. The facilities for which reimbursement may be given as set forth herein are shown on the approved plans for the subject project on file in the office of the City Engineer, which plans are made a part of this Agreement as though set forth in full.

C. The City will reimburse Subdivider without interest those amounts as set forth in paragraph A. of this Agreement at such time and only to the extent that the benefited properties shown on Exhibit-A develop along the frontages and/or connect to said sewer main facilities and pay their proportionate share of the oversizing costs set forth in paragraph A. Reimbursement payments shall be made solely from oversizing cost amounts actually received by the City from such properties. The City will use its best efforts to collect said oversizing costs at the building permit stage of development. Monies collected by the City hereunder shall be paid over to Subdivider within 60 days of collection up to, but not in excess of the total eligible reimbursement amount in paragraph A.

D. This Agreement for reimbursement and all obligations of the parties hereunder shall terminate on the anniversary date of this agreement ten (10) years from the date of execution hereof. Thereafter, all amounts collected by the City from other developments connecting to or developing within the benefit areas shown on Exhibit-A for their proportionate cost share of the oversized facilities installed shall be the sole property of the City of Reedley. Reimbursement amounts referred to herein shall be separate and apart from, and in addition to and not payable from normal hookup charges and other development fees and charges assessed by the City to developments connecting to or benefitting by the construction of public facilities.

E. All notices in connection with this Agreement shall be in writing and shall be given by personal delivery or first-class U.S. mail, postage prepaid, to a party at its respective address below:

To the City:                   City of Reedley  
                                      1733 Ninth Street  
                                      Reedley, CA 93654

To the Subdivider:        Quiring Properties, Inc.  
                                      1158 East Clinton Way, Suite #102  
                                      Fresno, CA 93727

Notice given by personal delivery shall be effective upon delivery; notice given by mail shall also be given by FAX and be effective upon receipt or three calendar days after the postmark date, whichever is earlier. Reimbursement payments shall be made to the Subdivider at the above address, or at such other address provided by the Subdivider to the City Manager in accordance with this Section E.

F. In the event either party commences legal action or arbitration to enforce or interpret any provisions of this Agreement, the prevailing party in such action or arbitration shall be entitled to recover from the losing party reasonable attorneys' fees, court costs and legal expenses in the amounts determined by the court or tribunal having jurisdiction.

- G. 1. The provisions of this Agreement shall be interpreted and enforced, and the rights and duties (both procedural and substantive) of the parties hereunder shall be determined, according to California law.
2. Any legal action in connection with this Agreement shall be instituted in the Superior Court of the County of Fresno, California or in the Federal District Court for the Eastern District of California, as appropriate.
3. Service of process for any legal action in connection with this Agreement shall be made (i) on the City by personal service on the City Manager of the City, or in any other manner as may be provided by California law, or (ii) on the Subdivider by personal service on the owner or partner of the Subdivider or in such other manner as may be provided by law, whether made in or out of California.

H. No member, officer or employee of the City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement, where such interest or decision is prohibited by law.

I. Waiver of any provision of this Agreement must be in writing and signed by a duly authorized representative of each party.

J. This Agreement may be amended, and the provisions of this Agreement may be waived, only in writing signed by duly authorized representatives of the City and the Subdivider, after approval by their respective board of directors.

K. This Agreement integrates all of the terms, conditions, agreements and understandings between the City and the Subdivider concerning the matters described in this Agreement. The Agreement supersedes all negotiations and previous agreements and understandings between the parties concerning such matters.

L. This Agreement is personal to the Subdivider. The Subdivider may not assign or transfer this agreement or its rights hereunder without the prior written consent of the City. Unless and until such consent is given, the City reserves the right to pay all reimbursement amounts to the Subdivider, and such payments will satisfy all obligations of the City hereunder.

IN WITNESS WHEREOF, the parties hereunto have set their hands the \_\_\_\_\_ day of \_\_\_\_\_, 2009,

CITY OF REEDLEY, a municipal corporation

SUBDIVISER, Quiring Properties  
a California Corporation

BY: \_\_\_\_\_  
Rocky Rogers, City Manager  
*(Notary Acknowledgement to be Attached)*

BY: \_\_\_\_\_  
Paul K. Quiring, President  
*(Notary Acknowledgement to be Attached)*

ATTEST:

BY: \_\_\_\_\_  
Kay Pierce, City Clerk

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Dale E. Bacigalupi, City Attorney

RECOMMENDED FOR APPROVAL BY:

BY: \_\_\_\_\_  
Bruce Webber, City Engineer



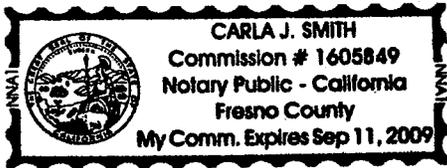
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Fresno } ss.

On July 31, 2009 before me, Carla J. Smith, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Paul Quiring  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Carla J. Smith  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

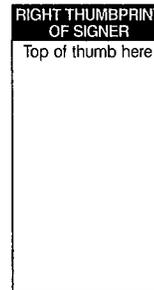
Signer(s) Other Than Named Above: \_\_\_\_\_

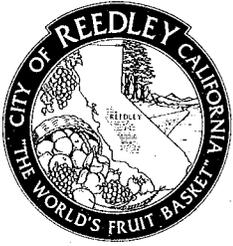
**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_





## REPORT TO CITY COUNCIL

# MEMORANDUM

AGENDA ITEM NO: 10

COUNCIL MEETING DATE: September 22, 2009

**SUBJECT:**

*Request for Alley Right-of-Way Abandonment*

**RECOMMENDATION:**

Approve Resolution No. 2009-64 establishing the City's intent to vacate an alley right-of-way and setting a time and place for a public hearing.

**BACKGROUND:**

The City has received a request from Douglas A DuRivage, property manager for the Diocese of Fresno to abandon a sixteen (16) foot wide alley right-of-way that is located in Assessor's Parcel No. 363-160-01 fronting N. Frankwood Avenue as shown on attached Exhibit "A". The Diocese of Fresno is proposing to construct a new Catholic Church on this site. Attached is a letter from the Catholic Church requesting that said alley right-of-way be vacated by the City of Reedley in accordance with the applicable California Streets & Highway Code.

As stated in the letter, the alley right-of-way was granted to the City of Reedley on October 17, 1968. There are currently no underground City facilities located within this right-of-way and the alley right-of-way has remained undeveloped and vacant land. The utility companies with facilities in Reedley have been contacted and have not stated an objection to the proposed abandonment of said alley right-of-way.

Staff recommends that said alley right-of-way be abandoned and that this property be granted back to the current property owner(s) of APN 363-160-01. The existing alley right-of-way does not serve a useful purpose to the City nor to the development being proposed on this site. With the proposed development of the project site for a Catholic Church this alley right-of-way will not be required since all proposed utilities will be served from existing or proposed utility extensions in Frankwood Avenue and Del Altair Avenue. Resolution 2009-064 is attached establishing the City's intent to abandon the alley right-of-way and setting a time and place for a public hearing is attached. The public hearing is proposed to be scheduled to occur on November 24, 2009.

**FISCAL IMPACT:**

Budgeted item: N/A  
Expenditure: N/A  
Fund Acct(s): N/A

Prepared by: MP Engineering Div  
Reviewed by: PKW City Engineer

Approved by: [Signature] City Manager

- Attachment(s):
1. Exhibit "A" – Site Map for Proposed Alley Abandonment
  2. Letter from Diocese of Fresno Requesting Alley Abandonment
  3. Resolution No. 2009-064
  4. Exhibit "B" - Diagram of Proposed Alley Abandonment

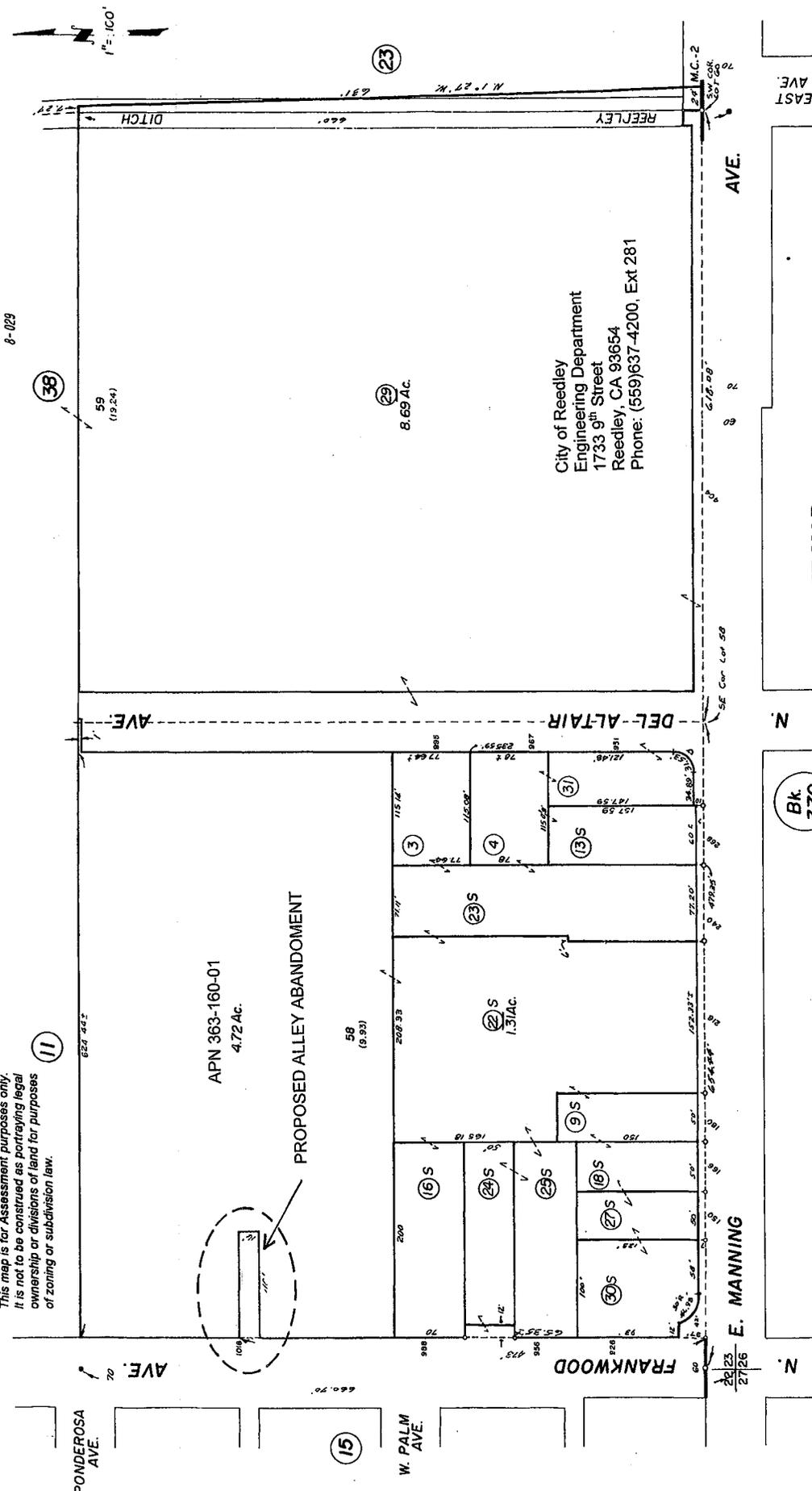
Motion: \_\_\_\_\_  
Second: \_\_\_\_\_

SUBDI. DED LAND IN POR. SEC. 23, T. 15 S., R. 23 E., M. D. B. & M.

363-16

Tax Area  
8-001  
8-029

NOTE —  
This map is for Assessment purposes only.  
It is not to be construed as portraying legal  
ownership or divisions of land for purposes  
of zoning or subdivision law.



PONDEROSA AVE.

W. PALM AVE.

APN 363-160-01  
4.72 Ac.

PROPOSED ALLEY ABANDONMENT

DEL-ALTAIR AVE.

FRANKWOOD AVE.

E. MANNING AVE.

AVE.

EAST AVE.

Bk. 370

SITE MAP  
PROPOSED ALLEY ABANDONMENT

Merritt Colony No. 2 - R. S. Bk. 3, Pg. 37

Assessor's Map Bk. 363 - Pg. 16  
County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses.  
Assessor's Parcel Numbers Shown in Circles

1961

Exhibit 'A'



DIOCESE OF FRESNO  
PASTORAL CENTER  
1550 NORTH FRESNO STREET  
FRESNO, CALIFORNIA 93703-3788  
TELEPHONE (559) 488-7400

July 30, 2009

Bruce Webber P.E.  
City Engineer, City of Reedley CA  
1733 9<sup>TH</sup> Street,  
City Hall  
Reedley, CA 93654

Subject: Request to vacate/abandon a portion of the alley easement on St Anthony Church property at 1018 No. Frankwood (APN #363-160-01) concurrent with the CUP Application on the same property.

Dear Mr. Webber,

The subject easement was originally granted to the City of Reedley on October 17, 1968 (Book 6273, page 81, Instrument/File No. 71540). The City of Reedley and the owner recently entered into a Sale & Purchase agreement for the west 12 Ft. of the subject property. As you know, the City will wish to retain the west 12 Ft. of the subject easement for the Frankwood street improvement project, so it is excluded from this request.

As owner of the property, I hereby request vacation/abandonment of a portion of the easement as shown on the attached Map. I petition and request to Abandon/Vacate all of said easement except for the west 12 feet. Specifically it is currently described as:

*"The North 16 feet of the South 473 feet of the West 110 feet of Lot 58 of MERRITT COLONY Ho. 2, according to the map thereof recorded in Book 3 at Page 37 of Record of Surveys, Fresno County Records."*

Attached are maps showing the present easement, the proposed portion to be vacated or abandoned and a copy of the site plan being submitted to the City Planning Dept. as part of a CUP Application. We wish to have the Alley Abandonment request be considered concurrently with the CUP Application. We assume that the CUP is a Planning Commission action and that the alley abandonment is a City Council action, so understand that it may require two concurrent separate tracks.

Thank you for your consideration.

Sincerely,

Douglas A. DuRivage, AIA  
Property Manager  
(559) 493-2872

cc: Dana Ritschel

**RESOLUTION NO. 2009-064**

**A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY TO VACATE AN ALLEY RIGHT-OF-WAY AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREOF.**

**WHEREAS**, the Streets and Highways code of the State of California, Sections 8300 to 8363 establishes procedures for the vacation of City streets and easements; and

**WHEREAS**, the City Council of the City of Reedley intends to abandon a public right-of-way within the City of Reedley herein described.

**NOW, THEREFORE**, be it resolved as follows:

1. That the City Council intends to vacate an alley right-of-way in accordance with the Provisions of the Streets and Highways Code of the State of California, Sections 8300 to 8363.
2. That the City Council intends to vacate an alley right-of-way in the City of Reedley, County of Fresno, State of California, and more particularly described as follows;

An alley right-of-way within the North 16 feet of the South 473 feet of the West 100 feet of Lot 58 of Merritt Colony No. 2, recorded in Book 3, Page 37 of Record of Surveys, Fresno County Records.

Excepting therefrom the West 12.00 feet of said Lot 58.

As shown on attached Exhibit "B".

3. That Tuesday, November 24, 2009, at the hour of 7:00 p.m., or as soon thereafter as possible, in the Reedley City Council Chambers, 845 "G" Street, Reedley, California, is the time and place set for a public hearing of all persons interested in or objecting to the proposed vacation of said right-of-way.
4. That this resolution shall be published by the City Clerk in accordance with applicable provisions of said chapters of the Streets and Highway Codes.

This forging resolution is hereby approved this 22<sup>nd</sup> day of September, 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

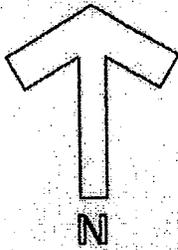
Mary L. Fast,  
Major of the City of Reedley

ATTEST:

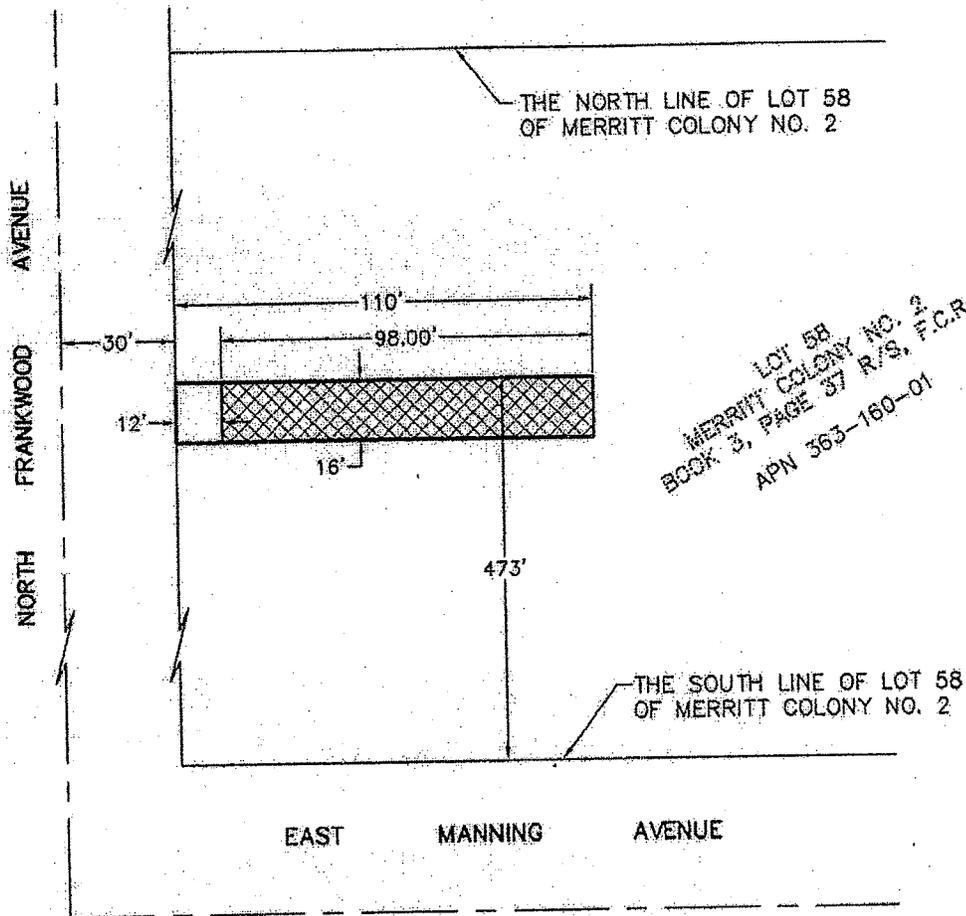
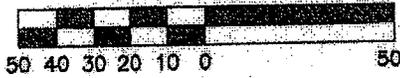
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Kay L. Pierce, City Clerk

# EXHIBIT "B"



SCALE: 1' = 50'



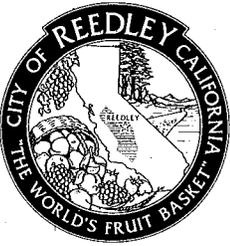
INDICATES AREA TO BE VACATED.

**PREPARED BY:**

GARY GIANNETTA  
 1119 "S" STREET  
 FRESNO, CA, 93721  
 (559) 284-3590

7/28/09

REF. & REV.	CITY OF REEDLEY		
	A PORTION OF SECTION 23, T 15 S, R 23 E, M.D.B. & M.	DR. BY: B. GIANNETTA CH BY: DATE: SCALE: AS NOTED.	SHEET NO. 1 OF 1 SHEET



## REPORT TO CITY COUNCIL

# MEMORANDUM

AGENDA ITEM NO: 11

COUNCIL MEETING DATE: September 22, 2009

**SUBJECT: Surplus Equipment**

### RECOMMENDATION:

Adopt Resolution No. 2009-065 declaring four (4) City of Reedley police vehicles as surplus equipment and authorizing the sale of said vehicles.

### BACKGROUND:

The City of Reedley Police Department has four (4) police units in the department's fleet which are no longer serviceable. The vehicles have mileage close to, or in excess of 100,000 miles and are close to, or over 10 years old. The vehicles are listed below:

1. Unit No.122, 1997 Chevrolet Malibu – VIN # 1G1ND52M3VY135384
2. Unit No. 126 , 1997 Chevrolet Malibu – VIN # 1G1ND52M9V6159653
3. Unit No. 11, 1996 Ford Crown Victoria – VIN # 2FALP71WITX211062
4. Unit No. 273, 1995 Kawasaki K21000 – VIN # CA862857

For a small fee, Nationwide Auctions, a national auction house, will sell this surplus equipment at the best possible price. Police Department staff recommends that the vehicles be declared as surplus.

### FISCAL IMPACT:

There will be income generated by the sale of this surplus property. Any funds generated by the sale will revert back to the general fund.

Prepared by: [Signature]

Approved by City Manager: [Signature]

Attachment(s): Resolution No. 2009-065

Motion: \_\_\_\_\_

Second: \_\_\_\_\_

**RESOLUTION NO. 2009-065**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY  
DECLARING FOUR CITY POLICE VEHICLES AS SURPLUS**

BE IT RESOLVED by the City Council of the City of Reedley as follows:

1. That the following City-owned police vehicles are hereby declared as surplus:

Unit No.122 – VIN # 1G1ND52M3VY135384

Unit No. 126 – VIN # 1G1ND52M9V6159653

Unit No. 11 – VIN # 2FALP71WITX211062

Unit No. 273 – VIN # CA862857

2. That the Chief of Police, or his designee, is hereby authorized to proceed with the disposal of these surplus vehicles to the best advantage for the City of Reedley.

3. This foregoing resolution is hereby approved this 22<sup>nd</sup> day of September, 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Mary L. Fast, Mayor

ATTEST:

---

Kay L. Pierce, City Clerk



## REPORT TO CITY COUNCIL

# MEMORANDUM

AGENDA ITEM NO: 12

COUNCIL MEETING DATE: Sept. 22, 2009

**SUBJECT: *Financing the purchase of the new Fire Department Medical Response Vehicle***

### **RECOMMENDATION:**

Approve Resolution No. 2009-066 authorizing the use of Fire Development Impact Fees to purchase the new Medical Response Vehicle.

### **BACKGROUND:**

On November 7, 2007, the City Council adopted Ordinance No. 2007-05 which added Chapter 11 to Title 5 of the Reedley Municipal Code imposing a transaction and use tax to be administered by the State Board of Equalization. Exhibit "A" of Ordinance 2007-05 establishes a five (5) year expenditure plan for revenue from the Public Safety Sales Tax. An updated expenditure plan was approved by the Oversight Committee on May 21st, 2009.

As part of the effort to enhance the Fire Department's capabilities and provide for increased firefighter safety, the Reedley Fire Department proposed and budgeted for a new Medical Response Vehicle using Measure G revenues.

The preferred method of purchasing the vehicle was to secure a lease with a traditional lending institution with an annual debt service payment. Due to the current economic climate in California and the nation, lenders that were approached did not want to participate.

The Fire Development Impact Fee account is an appropriate fund account to borrow the monies needed to purchase of the vehicle. The account will be repaid over a period of three (3) years from the revenues generated by Measure G. A debt service amount of \$52,750.00 is budgeted for the vehicle each year in the Measure G expenditure plan. The Fire Development Impact Fee account will be repaid in three (3) years with annual installment payments beginning June 30<sup>th</sup>, 2010. The term is three (3) years compounded annually with quarterly interest rate to be apportioned at the same rate of the L.A.I.F. (Local Agency Investment Fund).

**FISCAL IMPACT:**

Budgeted item: No  
Expenditure: One Time  
Fund Acct(s): 103 - 3630

Prepared by: [Signature] (Dept. Head)

Approved by: [Signature] City Manager

- Attachment(s):
- 1. Resolution No. 2009 - 066
  - 2. Budget Amendment

Motion: \_\_\_\_\_  
Second: \_\_\_\_\_

**RESOLUTION NO. 2009 – 066**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY APPROVING AND AUTHORIZING FIRE DEVELOPMENT IMPACT FEE ACCOUNT FUNDS TO BE USED FOR PURCHASE OF THE NEW FIRE DEPARTMENT MEDICAL RESPONSE VEHICLE WITH REMUNERATION**

WHEREAS, the purchase of a Fire Department Medical Response Vehicle using Measure G tax revenues has been budgeted and approved by the Measure G Oversight Committee; and

WHEREAS, the City of Reedley Fire Department desires to secure a funding source using Measure G tax revenues for repayment of the purchase over a period of three (3) years; and

WHEREAS, due to the current economic conditions in the State of California traditional lending sources have declined to participate; and

WHEREAS, the City of Reedley Fire Department proposes the use of development impact fees to fund the purchase of the vehicle;

NOW, THEREFORE, BE IT RESOLVED as follows:

That the City Council of the City of Reedley hereby approves and authorizes the use of Fire Development Impact Fees to purchase the Medical Response Vehicle with remuneration from the Measure G tax revenue account for a period of three (3) years with annual installment payments beginning June 30<sup>th</sup>, 2010. The term is three (3) years compounded annually with quarterly interest rate to be apportioned at the same rate of the L.A.I.F.:

The foregoing resolution is hereby approved this 22nd day of September, 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Mary L. Fast  
Mayor of the City of Reedley

ATTEST:

---

Kay L. Pierce, City Clerk

**BUDGET AMENDMENT  
FOR  
RESOLUTION NO. 2009-066**

The City of Reedley City Council does hereby amend the 2009-2010 Budget as follows:

**Section I - Account:**

FUND / ACTIVITY / OBJECT	AMOUNT
103—4273.6245	\$152,070.80
NAME: Medical Response Vehicle Debt Service	

Purpose: Finance Purchase of Vehicle

**Section II - Source of Funding:**

FUND / ACTIVITY / OBJECT	AMOUNT
103 – 2710	\$152,070.80
NAME: Fire Development Impact Fees	

Impact: The Fire Development Impact Fee account will be impacted by \$152,070.80 with remuneration of \$52,750.00 per year from account 003-4308-6140 until repaid.

**PROCLAMATION  
of the  
CITY OF REEDLEY**

***CULTURAL ARTS MONTH***

**WHEREAS**, the cultural arts positively enhance the quality of life of residents in our city, contribute to the economy and benefit the entire community daily from the variety of cultural arts available to our citizens; and

**WHEREAS**, the City of Reedley, the Fresno Coalition for Arts, Science and History (FCASH) and the Fresno Arts Council are partners working to grow a thriving cultural sector; and

**WHEREAS**, on Friday, October 2, 2009, the Fresno Coalition for Arts, Science and History will present its third "Cultural Arts Conference – Cultural Leadership, *Vision plus Strategy*" bringing together cultural arts providers and the community, business and public leaders dedicated to a thriving cultural sector; and

**WHEREAS**, FCASH and its 90 organizations and individual members and the Fresno Arts Council invite all the citizens of the City of Reedley to participate in these enriching events.

**NOW, THEREFORE, BE IT RESOLVED** that I, Mary L. Fast, Mayor of the City of Reedley and the Reedley City Council do hereby proclaim October as ***Fresno Cultural Arts Month***.

DATE: September 22, 2009

---

Mary L. Fast, Mayor

## PROCLAMATION OF THE CITY OF REEDLEY

*WHEREAS: Mario Gabriele Andretti, born February 28, 1940 in Montona, Istria in Italy and emigrating to the United States in 1955 to Nazareth, Pennsylvania ; and*

*WHEREAS: Mario has had a love for racing since his early childhood in a new youth racing league called Formula Junior in Ancona, Italy; and*

*WHEREAS: Mario has raced in the USAC stock cars, USAC sprint cars, URC single seat open wheel, NASCAR, IROC; and*

*WHEREAS: Mario's Indy Car career was the centerpiece of his career crowning it with the highest form of open wheel racing FORMULA ONE; and*

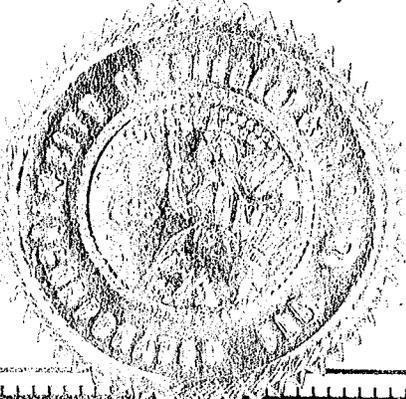
*WHEREAS: Mario's wins are too numerous to list in this proclamation; and*

*WHEREAS: Mario was named Driver of the Century in 2000 by the Associated Press and RACER magazine and inducted into the Motorsports Hall of Fame of America in 1990, The United States National Sprint Car Hall of Fame in 1996, and The International Motorsports Hall of Fame in 2001.*

*NOW, THEREFORE, the Reedley City Council, , do hereby recognize and thank **Mario Gabriele Andretti** for his commitment to his career, family and friends and his exemplary example to others young and old to follow, join this council in appreciation as we join together to say:*

**THANK YOU MARIO ANDRETTI**

*DATED: September 22, 2009*



*Mary L. Fast Mayor City of Reedley*

**PROCLAMATION  
OF THE  
CITY OF REEDLEY**

**WHEREAS:** **LEE'S SERVICE** has served the City of Reedley, Fresno County and California for 60 years; and

**WHEREAS:** *Lee's Service has served the community of Reedley through its assistance and support to numerous school and nonprofit organizations; and*

**WHEREAS:** *Lee's Service has provided economic stability and customer service during their 60 years in business; and*

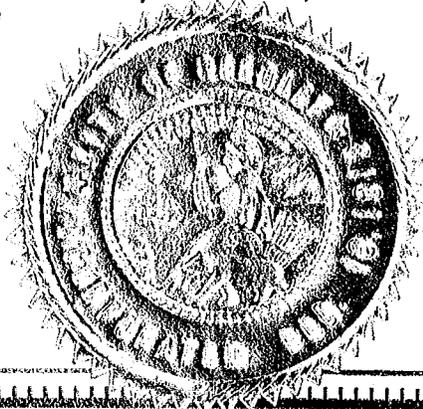
**WHEREAS:** *Lee's Service has become a business ICON in Reedley; and*

**WHEREAS:** *Lee's Service owner Robert Huebert has dedicated his life to making a success of his business and family*

**NOW, THEREFORE,** the Reedley City Council do hereby recognize and thank **Lee's Service** for their 60 years of growth and commitment of service excellence to Reedley, Fresno County and the State of California, please join this Council in appreciation as we join together to say:

**THANK YOU LEE'S SERVICE**

*Date: September 22, 2009*



\_\_\_\_\_  
*Mary L. Fast, Mayor of Reedley*



## REPORT TO CITY COUNCIL

# — MEMORANDUM —

AGENDA ITEM NO: 16

COUNCIL MEETING DATE: October 13, 2009

**SUBJECT:** *Revision of the Community Recreation Grant Guidelines*

**RECOMMENDATION:**

To amend the Community Recreation Grant Guidelines as recommended by the Parks and Recreation Commission.

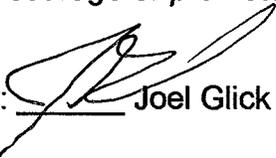
**BACKGROUND:**

At their meeting on April 23, 2009, the Parks and Recreation Commission reviewed the current Community Recreation Grant Guidelines and recommended a few additional requirements

In the past, some of the applications received didn't seem to be appropriate for a grant, but due to the broad requirements listed in the Guidelines, they could not be disqualified. It was felt that further clarification on the Guidelines would help define who the grants were designed to help. The Commission suggested adding the following criteria:

*Recommendations will be based on several factors. Does this event....*

- *Encourage the health and well being of Reedley citizens?*
- *Teach or encourage recreational, enrichment and/or outdoor skills?*
- *Help organizations/individuals with limited means?*
- *Encourage or promote our local parks?*
- *Encourage or promote youth?*
- *Encourage or promote local activities?*

Prepared by:  Joel Glick

Approved by:  City Manager

Attachment(s): Community Recreation Grant Guidelines

Motion: \_\_\_\_\_

Second: \_\_\_\_\_

**CITY OF REEDLEY**  
**COMMUNITY RECREATION GRANT GUIDELINES**

1. Community Cash Donations from the City of Reedley will be limited to the total amount appropriated by the City Council in the City Budget.
2. Donations will be limited to non-profit groups who provide direct recreational activities to Reedley residents. Non-profit as used herein shall mean those tax exempt groups that present written evidence that the organization has obtained non-profit status under the Internal Revenue Code Section 501(c)(3).
3. No funding will be granted to any fundraiser or cause.
4. Grants will be limited to a maximum of \$350.00 per group per fiscal year.
5. ***The 2009-10 deadline dates for submission of applications are August 20, 2009, October 15, 2009 and April 15, 2010 by 5:00 p.m. Grant proposals will be reviewed by the Parks and Recreation Commission at their meeting the following week. Meetings are typically the 4<sup>th</sup> Thursday of each month at 6:00 p.m. at the Reedley Community Center, 100 N. East Avenue, Reedley. If you are not notified, please ask the Community Services staff for information regarding the meeting.***
6. The Grant process will be as follows:
  - a. Grant proposals shall be submitted to:  
Director of Community Services, 100 N. East Avenue, Reedley, California 93654
  - b. Grant proposals will include:
    - 1) Name of Organization.
    - 2) State Non-Profit Number.
    - 3) Statement of group's purpose for requesting funds (organizations are encouraged to use the funding to pay for participants that could not otherwise afford to participate).
    - 4) Number of Reedley participants estimated to be served.
    - 5) Financial Statement Form attached.
    - 6) Other information as may be specified by the Community Services Director.
  - c. Due to the competitive nature of the grants, if all of the information listed in item 5b. is not included with the application, the organization may be disqualified.
  - d. The Community Services Director shall review requests and submit eligible requests to the Parks and Recreation Commission for evaluation.
  - e. *A representative of the organization needs to be present at the Parks and Recreation Commission meeting where the grants are reviewed and recommended.* This will give the applicant an opportunity to clarify information submitted.
  - f. The Parks and Recreation Commission shall submit grant award recommendations to the City Council for approval. *Recommendations will be based on several factors. Does this event....*
    - 1) ... encourage the health and well being of Reedley citizens?
    - 2) ... teach or encourage recreational, enrichment and/or outdoor skills?
    - 3) ... help organizations or individuals with limited financial means?
    - 4) ... encourage or promote our local parks?
    - 5) ... encourage or promote youth?
    - 6) ... encourage or promote local activities?
  - g. Upon approval, the Community Services Director shall have funds disbursed.
7. All other community groups who are not covered under these guidelines should be referred by the Director to the appropriate agency for potential funding.



## REPORT TO CITY COUNCIL

# MEMORANDUM

AGENDA ITEM NO: 17

COUNCIL MEETING DATE: September 22, 2009

**SUBJECT: Public Hearing Regarding the Citizen Option for Public Safety (COPS) Grant Program Funds**

### RECOMMENDATION:

It is recommended that the City Council, after holding and receiving comments from the public at this hearing, adopt Resolution No. 2009-069 authorizing the Reedley Police Department to expend funds under the Citizen's Option for Public Safety (COPS), Government Code 30061, AB 3229 funds.

### BACKGROUND:

AB 3229, known as the Citizen's Option for Public Safety (COPS), was enacted as part of the State budget package. Reedley will receive a minimum of \$100,000. We have factored these funds into the 2009-2010 General Fund budget. It is the intent of this crime bill to utilize the grant funds for police personnel. The funds must be used for front line municipal law enforcement and must supplement, and not supplant, existing funds. Legislative action since its inception now makes this funding on-going. The law requires that the City Council hold a public hearing in September of each year. This is the time set for this year's hearing to take public comment on the expenditure of these funds.

### FISCAL IMPACT:

Budgeted item: N/A  
Expenditure: N/A  
Fund Account: Placed into the general fund

Prepared by: SW Chief of Police

Approved by City Manager: R

Attachment(s): Resolution No. 2009-069

Motion: \_\_\_\_\_

Second: \_\_\_\_\_

**RESOLUTION NO. 2009-069**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY  
REGARDING THE CITIZEN OPTION FOR PUBLIC SAFETY (COPS)  
GRANT PROGRAM FUNDS**

WHEREAS, the Citizen Option for Public Safety (COPS) Bill through Government code 30061, AB 3229 Fund, gives financial grants to communities for public safety; and

WHEREAS, a notice of public hearing for the COPS program was published in the Reedley Exponent and the hearing date was set for September 22, 2009; and

WHEREAS, on September 22, 2009, public testimony was taken from citizens of Reedley at the public hearing.

NOW, THEREFORE, be it resolved that the City Council of the City of Reedley is authorized to accept the funds on behalf of the Reedley Police Department in the amount of \$100,000, for the purpose of replacing marked patrol vehicles and equipment.

The foregoing resolution is hereby adopted this 22<sup>nd</sup> day of September, 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Mary L. Fast, Mayor

ATTEST:

---

Kay L. Pierce, City Clerk



## REPORT TO CITY COUNCIL

# MEMORANDUM

AGENDA ITEM NO: 18

COUNCIL MEETING DATE: September 22, 2009

**SUBJECT:** *Consideration to payoff remaining debt for the Reedley Business and Community Development Corporation, dba the Reedley Chamber of Commerce.*

### RECOMMENDATION:

Provide direction with regard to payment of the remaining IRS debt in the amount of \$5,540.10.

### BACKGROUND:

The Reedley Business and Community Development Corporation (RBCDC) dba chamber of commerce, continues its dissolution process as noted in the attached letter from the office of Edmund Brown, Attorney General.

Council agreed to pay the local portion of the debt in the amount of \$447 and asked for the remainder to be brought back for consideration. This left a balance of debt to pay of \$5,540.10, which is attributed to nonpayment of employee tax to the IRS since March, 2008.

It is staff's understanding, after speaking with legal counsel, that the IRS debt is a debt of the corporation and may not be the responsibility of the individual officers of the corporation.

Staff asks for Council's direction as to finalizing the debt of the Reedley Business and Community Development Corporation dba The Reedley Chamber of Commerce.

### FISCAL IMPACT:

Budgeted item:	No
Expenditure:	ONE TIME
Fund Acct(s):	Staff to recommend

Approved by: \_\_\_\_\_ City Manager

Attachment(s):  
1. Former Chamber Debt Report by Donna Cole  
2. Letter from Edmund Brown, Attorney General

Motion: \_\_\_\_\_  
Second: \_\_\_\_\_

**Former Reedley Chamber of Commerce  
Closed 3/31/09**

<b>Creditor</b>	<b>Balance</b>	<b>Notes</b>
<b>Verizon Phone &amp; Fax 638-3548 /</b>	<b>\$604.46</b>	<b>New Board approved paying it. Per Carroll</b>
<b>Blossom Trail Poster billed by Sanger</b>	<b>\$250.00</b>	<b>Est. 10 copies left</b>
<b>Total</b>	<b>\$ 854.46</b>	
<b>Garner's Stationery *</b>	<b>\$ 316.00</b>	<b>Bill every month</b>
<b>Mid Valley Publishing *</b>	<b>\$ 277.00</b>	<b>Bill every month</b>
<b>Odyssey Computer</b>	<b>\$ 100.00</b>	<b>Jay Reimer</b>
<b>Sanborn &amp; Sanborn</b>	<b>\$ 500.00</b>	<b>Accountant</b>
<b>Signal Communication *</b>	<b>\$ 254.00</b>	
<b>Total</b>	<b>\$ 1,447.00</b>	
<b>IRS 940/941 EE end Filings</b>		
<b>March 31, 2008 *</b>	<b>\$ 870.00</b>	<b>Levy for payment, acct closed.</b>
<b>June 30, 2008 *</b>	<b>\$ 2,599.19</b>	<b>Rec'd Final notice 8/3/09</b>
<b>September 30, 2008 *</b>	<b>\$ 1,317.70</b>	<b>Rec'd Final notice 8/3/09</b>
<b>March 31, 2009 Closed</b>	<b>\$ 753.21</b>	<b>Rec'd Final notice 8/3/09</b>
<b>Total</b>	<b>\$ 5,540.10</b>	
<b>Total Estimate due to finance charges every month and penalties added to the amount.*</b>	<b>\$ 7,841.56</b>	<p><b>1. Rec'd letter from IRS terminating RBCC's 501 C status retro back to 3/31/09; still waiting for a letter from the Secretary of State dissolving corporation.</b></p> <p><b>2. Still have old RCC furniture sitting in Suite 102 &amp; 104, conference room &amp; the small storage area since 3/31/09.</b></p> <p><b>3. Please let me know if you want the furniture or I will give it to Salvation Army and/or Thrift Store no later than August 31, 2009.</b></p>

*Report by Donna J Cole as of August 4, 2009*



1300 I STREET  
PO BOX 903447  
SACRAMENTO, CA 94203-4470  
Public : (916) 445-2021x8  
Facsimile: (916) 444-3651  
Email: dissolution@doj.ca.gov

September 10, 2009

REEDLEY BUSINESS & COMMUNITY  
DEVELOPMENT CORP.  
1158 G ST, STE 100  
REEDLEY, CA 93654

CT FILE NUMBER: EX548153

RE: Dissolution of REEDLEY BUSINESS & COMMUNITY DEVELOPMENT CORP.

Dear Directors:

We have reviewed materials relating to the proposed dissolution of the above corporation.

Based on the representations and supporting documents submitted, the Attorney General's office confirms, pursuant to California Corporations Code section 6615(b)(2), that the corporation has no assets.

The corporation may proceed to complete its dissolution through procedures with the California Secretary of State.

AFTER the Secretary of State has endorsed the corporation's Certificate of Dissolution, please submit a copy of it to this office. If the corporation had assets, please also provide a final financial report from the end of the last accounting year through the date that the organization's asset balance was reduced to zero.

Sincerely,

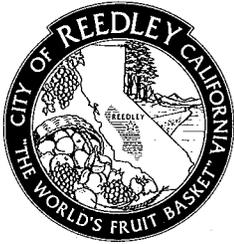
A handwritten signature in black ink, appearing to read "K. Bohaty", written over a horizontal line.

KENNETH S. BOHATY  
Staff Services Analyst  
Registry of Charitable Trusts

For

EDMUND G. BROWN JR.  
Attorney General

## REPORT TO CITY COUNCIL



# MEMORANDUM

AGENDA ITEM NO.: 19

COUNCIL MEETING DATE: September 22, 2009

**SUBJECT:** *Quarterly Budget Update.*

**RECOMMENDATION:**

Receive, File and give comment or further direction in allowing staff to continue analysis through the second quarter.

**BACKGROUND:**

Staff promised Council quarterly budget updates. but would like to preface the report with the fact that first quarter revenues will not be fully recognized until later this winter. It should also be noted that staff has maintained the \$1,000,000 reserves. With that being said, our review has generated the following observations for this year and more importantly. next fiscal year's budget standings.

As the end of year financials indicated, we ended the June 09 budget with approximately \$30,000 more than expected. While this helps our bottom line for 2009/10 showing a higher ending positive balance, approximately \$57,000, the 2010/11 budget, all things remaining equal, will still end with a deficit of \$1,400,000. As has been mentioned at previous Council meetings, the State take away, reduction of sales revenues, and higher cost of doing business has brought us to this juncture.

Staff has identified positions, part-time and full-time, that can be eliminated and/or frozen during the remainder of this fiscal year as well as through the 10/11 fiscal year to reduce the deficit. Staff has also identified some program cuts that could also further reduce the debt.

Furloughs were discussed with most all employees and have been looked at with other agencies. It is my opinion that for our largest consumer of general fund expenditures, aka the Police Department, that these will not work due to backfill and overtime required to maintain a minimum force.

Staff is considering other options should it warrant, such as possible reductions in salaries and or layoffs. At this time, we feel with the elimination of some part-time and freezing some full time positions, as well as some program cuts within the next 30 to 45 days, that we will be able to take another full quarter of analysis to determine whether further measures will be needed by the third quarter or beginning of the new fiscal year in order to balance the budget.

**FISCAL IMPACT:**

The fiscal impact could be an added reduction in expenditures of approximately \$600,000 for this fiscal year and when carried forward into the next fiscal year will result in another \$785,000 bringing a potential 2010/11 balance on June 30, 2011 of a positive \$80,000.

Budgeted item:	Not Applicable
Expenditure:	Not Applicable
Fund Acct(s):	NONE

**Prepared by:**

 City Manager

Attachments: NONE

Motion: \_\_\_\_\_  
Second: \_\_\_\_\_



## REPORT TO CITY COUNCIL

# MEMORANDUM

AGENDA ITEM NO: 21

COUNCIL MEETING DATE: September 22, 2009

**SUBJECT:** *Request By Kaweah Construction for Release of One-Half of the Retention Held by the City of Reedley for the Waste Water Treatment Plant Expansion Construction Project*

### RECOMMENDATION:

Approve Resolution No. 2009-068 approving Kaweah Construction's request for release of one-half of the retention held by the City of Reedley for the City's Waste Water Treatment Plant Expansion Project.

### BACKGROUND:

Since 2006, the City of Reedley has been expanding and upgrading the City's Wastewater Treatment Plant in order to process up to 5 million gallons of raw sewage per day. The new portion of the Plant is complete and operational and the existing plant rehabilitation is approaching completion, work is expected to be complete in mid to late October, 2009. To date, the Contract work is approximately 97% complete.

As is common practice in construction contracts and in accordance with the Public Contract Code, the City of Reedley has been withholding 10% of the Contractor's Contract billing for retention, to date that amounts to \$2,410,559.14. This is done to insure that the Contractor completes the work adequately, in accordance with the plans and specifications, and is an incentive for the contractor to work continuously on the project through completion. It is common practice for a City to release one-half of the retention held on a construction contract when 50% of the contract work is complete, this is also allowed by the Public Contract Code. The remaining one-half of the retention is released within 60 days of "Final Acceptance" of the Contract work.

Since there is only approximately one month left of work on a two-year construction contract, the work completed as of August 31, 2009 was 97.5%. The City Staff are occupying and utilizing many of the new structures, and the Contractor has shown a good faith effort to complete the work in accordance with the Project Plans and Specifications. Staff requests and recommends the City release one-half of the retention currently held by the City for the City's Wastewater Treatment Plant Expansion Construction Contract. The amount of Retention released would be \$1,205,279.57.

### FISCAL IMPACT:

Budgeted item:	Yes
Expenditure:	50% Waste Water Treatment Plant Expansion Construction Contract Retention
Fund Acct(s):	052-4510.6225

Prepared by: EMW (City Engineer)

Approved by: [Signature] City Manager

Motion: \_\_\_\_\_  
Second: \_\_\_\_\_

**RESOLUTION NO. 2009 – 068**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY  
APPROVING THE RELEASE OF ONE-HALF OF THE RETENTION WITHHELD BY  
THE CITY OF REEDLEY FOR THE CITY'S WASTEWATER TREATMENT PLANT  
EXPANSION AND UPGRADE PROJECT CONSTRUCTION CONTRACT**

WHEREAS, the City of Reedley entered into a construction contract with Kaweah Construction in 2006 for the expansion and upgrade of the City's waste water treatment plant; and

WHEREAS, Kaweah has proceeded with due diligence in completing the contracted work relating to the expansion of the City's waste water treatment plant; and

WHEREAS, to date, 97.5% of the contracted work has been completed; and

WHEREAS, City Staff are currently occupying and utilizing many of the completed structures; and

WHEREAS, the new plant is operational and the rehabilitation of the existing plant is expected to be complete in mid to late October, 2009.

NOW, THEREFORE, BE IT RESOLVED that the City of Reedley City Council hereby approves the release \$1,205,299.57, an amount equal to one-half of the contract retention currently withheld by the City on the City's Wastewater Treatment Plant Expansion Project Construction Contract.

This forgoing Resolution was duly adopted by the Reedley City Council at a regular meeting held on the 22<sup>nd</sup> day of September, 2009, by the following vote:

AYES:

NOES:

ABSENT:

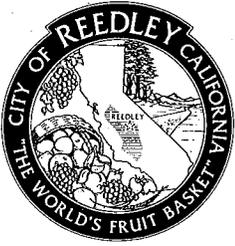
ABSTAIN:

\_\_\_\_\_  
Mary L. Fast  
Mayor of the City of Reedley

ATTEST:

By: \_\_\_\_\_  
Kay L. Pierce, City Clerk

# REPORT TO CITY COUNCIL



## — MEMORANDUM —

AGENDA ITEM NO.: 22

COUNCIL MEETING DATE: September 22, 2009

**SUBJECT:** *High Speed Rail Support for California and the Central Valley.*

### RECOMMENDATION:

Adopt Resolution No. 2009-067 supporting high speed rail for California and the Central Valley component for ARRA funding

### BACKGROUND:

Each City and County in the San Joaquin Valley is being asked to adopt a resolution to support an ARRA application for California that includes the Central Valley component of the high speed rail system as recommended by HSRA (High Speed Rail Authority) staff at the September 4, 2009, Authority meeting. This specifically included non-urban segments of the system from Merced to Fresno and Fresno to Bakersfield.

The Fresno Council of Governments is asking that each City's resolution be provided no later than September 23<sup>rd</sup> to them in order to submit their application on time.

While Reedley will not be impacted to the extent that cities along the 99 Rail Corridor would be, benefits will still avail themselves to our city. This could potentially reduce the overall emissions by allowing people faster more convenient public transportation. This would also provide potential jobs for individuals from the area to include Reedley. Staff recommends approval.

### FISCAL IMPACT:

Budgeted item:	Not Applicable
Expenditure:	Not Applicable
Fund Acct(s):	NONE

### Prepared by:

 City Manager

Attachments: 1. Resolution No. 2009-067  
2. Discussion sheet provided by COG

Motion: \_\_\_\_\_  
Second: \_\_\_\_\_

**RESOLUTION NO. 2009-067**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY  
SUPPORTING THE HIGH SPEED RAIL FOR CALIFORNIA**

WHEREAS, in 1996, the California State Legislature created the California High Speed Rail Authority to develop a plan for the construction, operation and financing of a statewide, intercity high speed passenger rail system; and

WHEREAS, California officials and citizens have been working together to plan for a high speed rail system for California. In November, 2008, California voters approved \$9.95 billion in bond funds to finance a high speed rail system that will run from Sacramento through the San Joaquin Valley to San Diego, with a segment of the system branching out to the Bay Area; and

WHEREAS, the California High Speed Rail Authority is planning to have a number of station stops throughout the system with one of the station stops to be located in Reedley; and

WHEREAS, the City of Reedley has a proven track record of enthusiastic support for the California High Speed Rail Project and is ideally situated to provide a convenient station stop for High Speed Rail customers; and

WHEREAS, the California High Speed Rail Authority is preparing an application for ARRA (stimulus) funding from the federal government for sections of the California high speed rail system, and is currently considering which Central Valley project(s) should be included in the ARRA application.

NOW, THEREFORE, BE IT RESOLVED that the California High Speed Rail system would greatly benefit the City of Reedley and State of California and that the Reedley City Council supports the continuing development of high speed rail on a statewide basis; supports a unified approach for the Central Valley; and supports an ARRA application for California that includes the Central Valley component of the high speed rail system as recommended by HSRA staff at the September 4 Authority meeting, specifically including non-urban segments of the system from Merced to Fresno and Fresno to Bakersfield.

This foregoing resolution is hereby approved this 22<sup>nd</sup> day of September, 2009, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

---

Mary L. Fast, Mayor

ATTEST:

---

Kay L. Pierce, City Clerk

## **Applying for ARRA Stimulus Funds for High Speed Rail: Why the Whole Central Valley Segment should be Included**

---

**The Issue:** The California High Speed Rail Authority is preparing an application for ARRA (stimulus) funding from the federal government for sections of the California high-speed rail system that are "ready to go". At its September 3rd meeting, the Authority directed staff to return with options for what project in the Central Valley should be included in the application. The staff had recommended applying for non-urban segments of the system from Merced to Bakersfield. The Authority directed the Staff to break up the Valley into sections that would provide station to station options versus the Merced to Bakersfield route in the non-urban segment.

**The Choices:** The Authority can choose to submit for the Merced-Bakersfield non-urban segments, as recommended by Authority staff. This would not include urban areas of the rail or stations.

Or, the Authority can apply for a shorter Valley segment, including urban areas and stations. The segment could either be Merced-Fresno or Fresno-Bakersfield.

**How to Decide?** The issue here is not which area is highest priority, or how air quality will be benefited, or how travel times will be reduced. We all agree that the entire system needs to be built to obtain the advantages of high speed rail. There is one question, plain and simple:

### **Which application is most likely to be successful?**

The Authority's decision should be guided, first and foremost, by which of the two options is most likely to be awarded the ARRA funding for California.

**Which One is More Likely to Win the Federal funds?** The first option, which is the Merced to Bakersfield non-urban segment, is clearly eligible for ARRA funding and is likely to be competitive against the applications that will be submitted by other states in a strong national competition. That is why it was recommended by Authority staff. The Authority staff works closely with FRA staff and are very aware of the stringent requirements of the funding.

**Why is the Second Option Not Competitive?** The second option fails to meet the ARRA guidelines for "independent utility". If it fails to meet the minimum requirements of the funding sources, it is unlikely to be successful in obtaining federal funding. Because the urban segments (especially elevated structures) and stations do not have "independent utility" they are not likely to be approved as an acceptable segment to receive federal funding.

**What is "Independent Utility" Anyway?** The Federal Railroad Administration's definition is:

*Independent Utility – A project, group of projects, or Service Development Program (or phase of a Service Development Program) is considered to have independent utility if it will result, upon completion, in the creation of new or substantially improved High-Speed Rail/Intercity Passenger Rail service, and will provide tangible and measurable benefits even if no additional investments in the same High-Speed Rail/Intercity Passenger Rail service are made. Typical examples of these benefits would include on-time performance improvements, travel-time reductions, and higher service frequencies resulting in increased ridership.*

**Conclusion:** This should be an easy decision. When applying for federal funding in a competitive situation, the goal is to provide the most competitive application, which is the HSRA staff recommendation for non-urban segments of the entire Merced to Bakersfield segment.