

DEPARTMENT: Public Works

By: Michael Edwards Phone: 966-5356
Director

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No__)

The Department of Public Works is requesting Board direction as to whether a lease should be required for the nursery utilizing County right-of-way at the corner of 8th and Jessie (Hwy 140) Streets in Mariposa. If a lease is required, the Board should set the annual rate at fair market value. If a lease is required, should this be with the tenant (nursery owner) of the adjacent property or with the property owner of the adjacent property?

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Public Works Department recently allowed the tenant of the adjacent property to complete a fence that was being constructed partly on County right-of-way, by filing for and receiving an encroachment permit at a cost of \$60.00. This allowed completion of the fence, which was begun without the County's permission. A copy of the permit is attached showing the conditions imposed with the permit. Public Works subsequently asked County Counsel if a lease should be required and were advised that the Board would have to make this decision. This area is currently not used for County purposes. However, an adjacent property owner (Bondshu) has access rights through the right-of-way. This area was leased to Clyde Britt from 1981 through May 1986 for \$1.00 per year. County Counsel advised that this lease has expired. A copy of this lease is attached. The current property owner of record is John W. Fouch, TR, of Upland, California.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

1. The Board could rescind the encroachment permit and cause the improvements to be removed and private use of that property to cease.
2. The Board could have the property appraised and offer it for sale to Fouch, reserving an access easement for Bondshu as a condition of sale.
3. If the Board does not take action, such as to require a lease, the County Property will continue to be occupied in accordance with the encroachment permit. Use of County property for private business purposes, without compensation, could be considered a "gift of Public funds"

<p>COSTS: (X) Not Applicable</p> <p>A. Budgeted current FY \$ _____</p> <p>B. Total anticipated costs _____</p> <p>C. Required additional funding _____</p> <p>D. Internal transfers \$ _____</p> <p>SOURCE: () 4/5th Vote Required</p> <p>A. Unanticipated revenues \$ _____</p> <p>B. Reserve for contingencies \$ _____</p> <p>C. Source description: _____</p> <p>Balance in Reserve Contingencies, if approved: \$ _____</p>	<p>SPECIAL INSTRUCTIONS: List the attachments and number the pages consecutively:</p> <p>1. Encroachment Permit No 2608 _____</p> <p>2. Memo, Tucker to Green _____</p> <p>3. Memo, Green to Tucker _____</p> <p>4. Lease to Clyde Brill, 5/19/81 _____</p> <p>5. _____</p>
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CLERK'S USE ONLY

Res. No.: 95-160 Ord. No. _____
Vote - Ayes: _____ Noes: _____
Absent: _____ Abstained: _____
 Approved Denied
 Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of
the original on file in this office.

Date: _____
ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

- Recommended
- Not Recommended
- For Policy Determination
- Submitted with Comment
- Returned for Further Action

Comment: _____

A.O. Initials: 

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: MIKE EDWARDS, Public Works Director
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: Nursery Using County Right-of-Way at 8th
and Jessie (Highway 140) Streets in Mariposa;
Resolution Number 95-160

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on April 18, 1995

ACTION AND VOTE:

9:25 a.m. Mike Edwards, Public Works Director;

A) Request for Direction on whether a Lease is Required for Nursery Using County Right-Of-Way at 8th and Jessie (Highway 140) Streets in Mariposa, and if so, Set Annual Lease Rate and Identify Lessee (Continued from Forthcoming Policy on 04/11/95)

BOARD ACTION: Discussion was held concerning the request and the previous actions relative to use of the right-of-way. Kathy Joslin/current lessee of adjacent parcel, advised of her arrangements with the property owner and understanding concerning use of the right-of-way.

(M)Reilly, (S)Taber, Res. 95-160 adopted authorizing Public Works to work with County Counsel to immediately enter into a lease agreement with the adjacent property owner to the subject right-of-way; and investigate the possibility of sale of the right-of-way parcel; directing the \$60.00 encroachment permit fee be refunded as the permit would not be required with a lease agreement; and requesting the Assessor to prepare an appraisal for estimate of value on the subject right-of-way parcel. Following further discussion, motion was amended, agreeable with maker and second, to include direction that the lease agreement be for a period of six months with a \$1.00/year rental fee, in anticipation that the adjacent landowner will purchase the parcel. Supervisor Balmain expressed concern that future lease agreements be reviewed and structured so that the fee covers all county costs. Ayes: Unanimous.

cc: Jeffrey G. Green, County Counsel
Ken Hawkins, Auditor
Gary Estep, Assessor