



DATE OF CITY COUNCIL MEETING: April 20, 2010

TO: LAUREL M. BARCELONA, City Administrator

FROM: TIMOTHY L. DABNEY, Chief of Police
t_dabney@ci.lompoc.ca.us

SUBJECT: APPLICATION APPROVAL FOR CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, OFF-HIGHWAY VEHICLE GRANTS FUNDS

Recommendation:

1. The City Council adopt Resolution No. 5625(10) approving a grant application submitted by the Lompoc Police Department to the California Department of Parks and Recreation in the amount of \$164,252 to enhance public education, crime prevention and enforcement of laws related to off-highway vehicle use on the City of Lompoc Riverbend Multi-purpose Bike Trail and other City property in the Santa Ynez Riverbed.
2. Authorize the City Administrator and Chief of Police or his designee to accept and administer the California Department of Parks and Recreation Grant if awarded.

Background:

The Lompoc Police Department has been tasked with finding alternatives to address nuisance and code enforcement issues that impact our City and residents. One such issue is unlawful access to the Santa Ynez Riverbed, and both privately owned and City owned property contiguous to the Santa Ynez Riverbed by off-highway vehicles. It is estimated police officers and park rangers respond to over 400 service calls per year regarding off-highway vehicle violations. Several state laws and local ordinances are currently violated on a regular basis with some degree of impunity due to the general lack of time and resources available to the police department and the Lompoc Parks and Recreation Department. Some of the laws applicable to off-highway vehicles in this case are:

California Vehicle Code Section 23127 – Driving on a Bike Path

No person shall operate an unauthorized motor vehicle on any state, county, city, private, or district hiking or horseback riding trail or bicycle path that is clearly marked by an authorized agent or owner with signs at all entrances and exits and at intervals of not more than one mile indicating no unauthorized motor vehicles are permitted on the hiking or horseback riding trail or bicycle path, except bicycle paths which are contiguous or adjacent to a roadway dedicated solely to motor vehicle use.

California Vehicle Code Section 38319 – Damaging Environment

No person shall operate, nor shall an owner permit the operation of, an off-highway motor vehicle in a manner likely to cause malicious or unnecessary damage to the land, wildlife, wildlife habitat or vegetative resources.

California Penal Code Sections 602 et. Seq., 602.2 and 602.8 -- Trespassing

Particularly -- California Penal Code 602(n) – Trespassing with a vehicle

Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to, or lawfully occupied by, another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession.

Santa Barbara County Code Section 24-28 Motor vehicle nuisance on unimproved property

Findings and intent.

The board of supervisors hereby finds and determines as follows:

- (a) In several locations in the unincorporated territory of the County of Santa Barbara unimproved areas of land exist in close proximity to lands developed to residential uses.
- (b) Persons lawfully occupying lands for residential purpose have the right to quiet and peaceful enjoyment of their homes and grounds. Persons lawfully on unimproved lands have the right not to have their lives, limbs and properties endangered by operation of motor vehicles on such lands.
- (c) Many persons drive motor vehicles of many kinds, including passenger cars, vans, trucks, dune buggies, motorcycles and off-road vehicles onto such unimproved lands and operate such motor vehicles on such lands so as to create substantial nuisances to nearby residents including, but not limited to large amounts of dust and excessive exhaust noise. Such persons, furthermore, often operate such motor vehicles so that they endanger the lives, limbs and property of other persons on such lands.
- (d) The climatic and geographic conditions in the County of Santa Barbara tend to increase the secondary effects of such motor vehicles operated in and around unimproved property and near sensitive habitats. These climatic and geographic conditions and sensitive habitats in the County of Santa Barbara include dry inland areas, pristine forests, wildlife refuges, critical chaparral areas with long recovery times following surface damage, sensitive watersheds, watercourses, wetlands and coastal environments.
- (e) Local, state and federal agencies have designated and set-aside specific areas, trails and routes for the express purpose of allowing the safe and non-offensive recreational use of off-road vehicles.
- (f) State laws making trespassing on private property breaches of the peace, and other activities which occur on such lands misdemeanors, have not proved effective in controlling and terminating such motor vehicle activities on unimproved lands, whether public or privately owned.
- (g) It is the intent of the board of supervisors to prohibit activities of motor vehicles on unimproved lands, whether public or privately owned, which create dust and noise nuisances to nearby residents, which endanger lives, limbs and property of persons lawfully on such unimproved lands, and which endanger sensitive habitats located on such unimproved lands, in order to protect and preserve the public peace, safety and welfare.

Santa Barbara County Code Section 24-29 (a)

It is unlawful for any person willfully to drive any motor vehicle as that term is defined in the Vehicle Code upon unimproved portions of real property in the unincorporated areas of Santa Barbara County, whether public property, or property belonging to or lawfully occupied by another, without the express permission of the owner, the owner's agent or the person in lawful possession of said real property.

Santa Barbara County Code Section 24-30

It is unlawful for any person to violate any provision of this chapter. Any person violating any provision of this chapter shall be deemed guilty of an infraction or misdemeanor as hereinafter specified.

Any person so convicted shall be:

- (1) Guilty of an infraction offense and punished by a fine of one hundred dollars for a first violation;
- (2) Guilty of an infraction offense and punished by a fine of two hundred dollars for a second violation within one year;
- (3) The third and any additional violations within one year shall constitute a misdemeanor offense and shall be punishable by a fine of one thousand dollars or six months in jail, or both.

Lompoc Municipal Code Section 10.04.200 -- Off-Highway Use of Motorcycles and Motor-Driven Cycles.

No person shall ride or operate any motorcycle or motor-driven cycle on any private property or public property within one-quarter mile of any school, hospital, convalescent home, or residence except on a regularly established public street or parking lot appurtenant to a structure on the property, or on a private road or driveway. This Section shall not apply to the use of property pursuant to a permit issued for such use by a governmental agency or use of property established as a recreation area for such operation or riding.

Lompoc Municipal Code Section 12.08.404 – Obedience of Park Rules

- A. Commission Regulations. The Commission may adopt rules and regulations governing the conduct of recreation programs, protection of property, and activities of persons in all parks. This includes the right to exclude persons from any park or portion thereof; to regulate traffic, both pedestrian, equestrian and vehicular; regulate the operation and use of bicycles; the keeping or use of animals; the conducting of assemblies, contests, games and sports; regulation of activities such as merchandising, advertising, gambling, solicitation, and imbibing of alcohol. The Commission may establish rates, charges and deposits for the use of any park or portion thereof, or personal property, and establish rules necessary and incidental to the use of the park or property and payment or collection of the rate or charge therefore. The listing of any specified power in this paragraph is not a limitation on the right of the Commission to regulate a park or persons; or property therein.
- B. Director’s Duties. The Director shall carry out the rules and regulations of the Commission and do any act incidental or necessary thereto.
- C. Enforcement. The powers of the Commission and the rules and regulations adopted thereby to regulate persons and property within any park are necessary for the protection of the health, safety and welfare of persons and property within each park and no person shall fail to obey any such regulation upon having notice thereof.

The above stated are but a few of the existing laws that may pertain to persons driving off-highway vehicles over the Lompoc Multi-purpose bicycle trail, across City property contiguous to the Santa Ynez Riverbed and upon private and public lands without express permission.

Other laws that regulate Off-Highway Vehicle use, such as the need for spark arrestors (Section 38366 California Vehicle Code), littering (Section 374.4 California Penal Code), DUI Driving (Section 23152

California Vehicle Code), helmet requirements (Section 30505 California Vehicle Code) under-aged (14) driving of all terrain vehicles (ATV) without parental supervision (Section 38504 California Vehicle Code), and others, apply to vehicles that are accessing private and public property that are contiguous to the Santa Ynez River Bed.

Please see the attached public information materials distributed by the Santa Barbara County Sheriff's Department and the California State Parks Off-Highway Motor Vehicle Recreation Division.

In consideration of the public comment provided during the Lompoc City Council Meeting of April 6, 2010. The Lompoc City Attorney, Joe Pannone, provided the following statement:

"Notwithstanding any of the information provided by the public at your April 6, 2010, meeting, the County of Santa Barbara and the City of Lompoc have authority to prohibit persons from using off-highway vehicles in those portions of the Santa Ynez river bed and adjoining real property that are within each entity's jurisdictional boundaries. In addition, the City has authority as an owner of real property to regulate its use whether it is the City or County's jurisdictional boundaries."

Discussion:

The Lompoc Police Department and the Lompoc Parks and Recreation Department are not asking the City Council to create or change any law regarding off-highway vehicles. This proposal is brought to you collaboratively by these two departments under the Council's direction to seek funding sources to support and enhance the City's existing operations.

The Lompoc Police Department and the Lompoc Parks and Recreation Department are in full support of the development of a designated Off-Highway Vehicle recreational area or park. However, this grant opportunity is provided for the purpose of education and enforcement of existing OHV laws.

The Lompoc Police Department and Lompoc Parks and Recreation Department have collaborated to apply for a State grant that will support enforcement and education intended to make the streets and bike/foot path much safer and enjoyable for everyone and preserve the City's interests in the Santa Ynez Riverbed.

The Lompoc Police Department has completed an application to receive grant funding offered by the California Department of Parks and Recreation to purchase 1 OHV (Razor) patrol vehicle and use bicycles for joint patrol and enforcement in the riverbed, uninhabited land, and on the City of Lompoc Riverbend Multi-purpose Bike Trail. The grant funding also provides overtime, salary and benefits to staff preventative/enforcement patrols with police officers, and park rangers. The proposed deployment of officers/rangers is 180 hours of patrol time per month for one year. Lompoc Police Department Volunteers can be trained to provide additional hours of patrol time.

The goal is not only enforcement, but educating the OHV public on riding safety and the dangers of riding in areas that are not legal and monitored by properly trained personnel, respect for private property, and environmental responsibility. Lompoc Police Officers will stop OHV's they encounter, conduct enforcement as necessary, educate the OHV driver on the laws governing the area they are illegally driving in and any other safety concerns to include the availability of the "ATV Rider Safety

Course”. The officers and park rangers will direct those seeking off-road activities to nearby local and state OHV opportunities to ride legally and safely. City staff will use various methods of education and enforcement , such as the Lompoc Police Beat TV Show, press releases in the local media, traffic message boards, brochures, outreach to local OHV organizations and other events, City website links for OHV riding, and partnership with California State Parks Rangers and Santa Barbara County Sheriff’s Department.

OVERVIEW OF GRANT REQUEST:

The total grant figure has been reduced from the previous proposal of \$176,595 to \$164,252 after discussions with the granting authority following the April 6, 2010 meeting of the Lompoc City Council and appropriate adjustments have been made to the “in-kind matching totals. The deadline for the final grant application is May 3, 2010 and the grant period is fiscal year 2010-2011.

The grant offered by the California Department of Parks and Recreation requires a twenty five percent (25%) match by the City of Lompoc. This match can be a “hard” match of actual expended funds or an “in-kind” match of program management or other operational costs.

	Grant Funds	In-Kind Match
Salaries and Benefits (2 park Rangers & 2 Police Officers for 2,160 hours) Potentially 90 hours of court overtime Budget)	\$91,843	\$ 5,490 (Existing
Program Supervisor (192 hrs or 9.5% of full-time)		8,112 (Existing Budget)
Parks and Recreation Administrative Overhead (3%)		2,984 (Existing Budget)
Police Administrative Overhead (Captain @ 3%)		3,401 (Existing Budget)
Polaris Razor OHV Patrol Vehicle	17,000	
Safety Equipment and Associated Supplies	2,144	
Indirect Costs of the Grant	12,000*	
Fuel and Maintenance Costs		5,000*
Tow Vehicle and Trailer		1,200 (In Inventory)
Printing of Prevention Materials & Signage		2,500 (Existing Budget)
Emergency Medical Supplies (AED & med kit)		2,500 (In Inventory)
Miscellaneous Uniform Equipment		400 (Existing Budget)
Police Equipped Mountain Bicycles (2)		3,000 (In Inventory)
Training Park Rangers/Officers (Bicycle and OHV Operation)		6,678 (Existing Budget)
TOTAL COSTS	\$122,987	\$41,265

Fiscal Impact:

\$122,987 in Grant Revenue. The California Department of Parks and Recreation Grant requires a twenty-five percent (25%) match. Those costs listed above in the “In-kind Match” column are either accounted for in City inventory or can be covered under the existing City budget. The asterisk on fuel and maintenance costs indicates that a budget variance or adjustment may be necessary depending upon the amount spent in unspecified indirect costs of the grant funding provided by the State.

Consequences:

Should the Lompoc City Council choose not to adopt Resolution No. 5625(10) approving this grant application, the Lompoc Police Department will lose the opportunity to compete for these grant funds.

This grant opportunity provides the City with a new approach to off-highway vehicles in the riverbed and associated problems. The City of Lompoc Parks and Recreation Department and the Lompoc Police Department will continue to respond to reported incidents in the area of the riverbed and multi-purpose bike trail, but proactive or preventative patrol will be very limited and dependent upon available resources.

Summary:

- **No new law, ordinance, or prohibition is being requested.**
- **Park Rangers and Police Officers will continue to respond to calls for service pertaining to the multi-purpose bike trail and Santa Ynez Riverbed area and take enforcement action as appropriate whether or not this grant application is approved.**
- **This proposal simply adds staff hours and a vehicle to enhance the City's prevention and enforcement effort.**
- **The Lompoc Police Department and the Lompoc Parks and Recreation Department fully support any efforts to develop an off-highway vehicle recreational area or park.**

Staff recommends the City Council adopt Resolution No. 5625(10) approving the grant application submitted by the Lompoc Police Department to the California Department of Parks and Recreation in the amount of \$164,252 to enhance public education, crime prevention and enforcement of laws related to off-highway vehicle use on the City of Lompoc Riverbend Multi-purpose Bike Trail and other City property in the Santa Ynez Riverbed.

Respectfully submitted,

TIMOTHY L. DABNEY
Chief of Police

APPROVED FOR SUBMITTAL TO CITY COUNCIL:

LAUREL M. BARCELONA
City Administrator

Attachment: [Resolution No. 5625\(10\)](#)
[Santa Barbara County Sheriff's Department – ATV and Off-Road Motorcycle Riding.](#)