

# CITY COUNCIL STUDY SESSION

**TO:** Mayor and City Council  
**FROM:** Mari E. Macomber, City Manager <sup>MEM</sup>  
**SESSION DATE:** May 17, 2010  
**TIME:** 4:30 p.m.  
**PLACE:** Second Floor Conference Room . City Hall

We will need to adjourn to allow the City Council to make the City Council meeting at 6:00 pm.

## **AGENDA:**

- 2010 STREET IMPROVEMENT PROGRAM
- ESSENTIAL AIR SERVICE SELECTION
- VICIOUS DOGS
- REVIEW NEWSLETTER

## **2010 STREET IMPROVEMENT PROGRAM**

Each year staff reviews the street program with the Airport and Transportation Commission and the City Council prior to bid letting. We meet with both groups to keep you informed and make sure that there is support for the approach that we use to determine the priority street projects. The Airport and Transportation Commission met last week to complete their review of the 2010 Street Improvement Program.

Determining the priority streets is based on an evaluation of the condition of the streets, using objective criteria. The information is plugged into a program and ratings are established for each street. The program we use is called PAVER, which uses a pavement condition index (PCI) as the measurement of the streets condition. Included with this packet are two spreadsheets (one for asphalt the other concrete), which include the PCI for various streets. A PCI rating of 75 is good, a rating of 70 is fair, a rating of 46 to 69 is poor, and a rating below is very poor. We separate the streets by their rating and by their street classification (collector and above or residential). Because we were not able to complete all of the streets that had been identified in last year's street program, we moved them forward to this year.

We have limited funds that we are able to spend each year on street maintenance. We have allocated \$125,000 to curb, gutter and storm drainage, which is \$25,000 less than last year's allocation, and \$375,000 for asphalt and concrete pavement. The City also budgets funds in the General Fund that are used by the Street Maintenance Division for pothole patching, and general street maintenance.

Attached to this Study Session Packet is a Memorandum from Public Works Director John Buckwalter. This Memorandum provides additional information that will be helpful for you.

As always, our project list exceeds our available funds. We want to seek Council input and/or your concurrence on the direction that we will be taking.

Recommended Action: It is recommended that the City Council review the list of major projects and the street lists, providing comments and asking questions regarding the program.

### **ESSENTIAL AIR SERVICE SELECTION**

The US Department of Transportation (USDOT) sent out bid requests for the City of Kirksville Essential Air Service. The bids were due by April 23. There were three known bidders for the service . Pacific Wings, Cape Air and Air Choice One. Airport Director David Hall organized presentation opportunities for each of these air carriers to share information about their airlines and reasons why Kirksville should consider their proposals for the new essential air service. A committee made up of individuals from the City Council, ATC, and local community was asked to participate in these interviews. As a reminder, part of the selection process allows the local community input in the selection. Unfortunately, one of the companies interviewed, Pacific Wings chose not to submit a bid. However, proposals were submitted by Cape Air and Air Choice One, along with Charter Air Service and Sovereign Air.

Airport Director David Hall has summarized the proposals in his memorandum, which is attached.

The Airport and Transportation Commission (ATC) has made a recommendation for the City Council to consider. The ATC is recommending Cape Air. Members of the interview committee met briefly after the last interview, it is my understanding that the majority of the members were in favor of Cape Air, and only one member selected Air Choice One.

Though Air Choice One has provided excellent air service and is served by outstanding staff. Their failure to complete the services requested of them by both USDOT and the ATC was sufficient reason for the recommendations. Included with this packet is an email from Shane Storz, Air Choice One introducing an individual who will be working for Air Choice One to establish the GDS system which allows people to make reservations and connections on line.

Also included is a letter from US DOT that clearly states the expectations of this department, placing emphasis on meeting the \$200 cap.

A couple of members of the City Council attended the presentations, and heard the feedback from the other individuals who attended.

Recommended Action: It is recommended that the City Council select Cape Air as their choice air carrier. If the Council is in agreement with this, Monday nights agenda has this recommendation on the agenda. If the Council wishes to make an alternate decision, that can also be completed Monday evening. The City has until May 25 to provide a response to USDOT.

## **VICIOUS DOGS**

A couple of members of the City Council have been contacted in the past about whether or not the City would consider additional regulations on vicious dogs. It was reported that one individual, whose job requires him to be out in neighborhoods had been bitten twice by a certain breed of dog. Two other individuals made contact with a member of the Council expressing fear about a neighbor's dog and their fear of using their back yards. Information on animal incidents and vicious dogs was included in a recent Newsletter.

This information is again provided for the City Council's review. In addition, the Finance Department has provided specific problems that the customer service representatives experience when trying to do their jobs to service water customer accounts. Both the Finance and Codes Department have had encounters with what they deem to be vicious dogs. Brad Selby will be in attendance at the City Council meeting, and can explain the issues that his staff has encountered.

### Recommended Action:

The Council may want to explore whether there are special rules or regulations that could be established to protect those individuals, whose jobs require them to approach properties. For example, the current ordinance requires insurance if an animal is deemed to be a problem in the amount of \$10,000 and \$20,000. Maybe this amount should be increased. Pet owners are legally responsible for the actions of their animals. If a pet were to injure someone or run across the road and cause an accident, as owner of that animal you would be liable to prosecution and claims for compensation. The American Kennel Club is strongly opposed to breed-specific legislation. They encourage laws that establish a fair process by which specific dogs are identified as "dangerous" based on measurable actions and imposing appropriate penalties on irresponsible owners. The AKC suggests a minimum of \$250,000.

Regardless of any further restrictions, we should ask our City Attorney to research any legal issues that may exist.

## **REVIEW NEWSLETTER**

### Attachments

- 2010 Street Program Staff Memorandum
- 2010 Street Program Spread Sheet
- 2010 Street Program Map
- Essential Air Service Staff Memorandum
- US DOT Letter

Air Choice One Email  
Applicable Animal Control Ordinances  
Staff Reports Regarding Vicious Dogs

## KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

**SUBJECT:** 2010 Street Improvement Program

**STUDY SESSION MEETING DATE:** May 17, 2010

**CITY DEPARTMENT:** Public Works

**PREPARED BY:** John Buckwalter, Director of Public Works

This report summarizes the proposed 2010 Street Improvement Program. This report recommends allocation of funds between concrete pavement repair, curb, gutter, and storm drainage, and asphalt pavement repair. It provides a summary of required work. It is intended to provide council and staff a starting point for input supporting development of the final list to be included in the contract documents for 2010.

The 5-year transportation plan calls for spending approximately \$550,000 per year for the street improvement program, including overlay, concrete pavement repair, and curb and gutter construction. From 2001 to 2005 expenditures greatly exceeded that amount as we attempted to catch up with much needed repairs to reduce the maintenance backlog on our streets. Council authorized spending almost \$940,000 from the Transportation Sales Tax account in FY01/02, \$853,000 in FY02/03, \$718,900 in FY 03/04, \$645,765 FY 04/05, and \$574,239 in 04/05. The 2006 program charges to Transportation Sales Tax totaled \$596,587. The 2007 total was \$562,651, the 2008 TST funded program was \$596,064, and 2009 totaled \$589,348, including \$79,208 to start the crack sealing program.

The 2010 budget again allocates \$125,000 to Curb, Gutter and Storm Drainage and \$375,000 to the Street Improvement Program, or \$500,000. For 2010 the proposed division is \$175,000 for concrete pavement, \$125,000 for curb, gutter, and storm drainage, and \$200,000 for asphalt overlay. The 2010 crack sealing program is included in the street maintenance budget of the Public Works Department.

In 2001, council agreed to a maintenance and repair priority based on street classification and pavement condition. The PAVER pavement management program uses Pavement Condition Index, or PCI as the measurement of a street's condition. A PCI of 70 is considered %Fair+, a PCI of 75 is considered %Good+. A PCI of 46 to 69 is considered %Poor+. PCI's below 45 are very poor to failed. Streets were grouped in 5 priorities for first analysis:

- |    |                     |              |
|----|---------------------|--------------|
| 1. | Collector and Above | PCI < 70     |
| 2. | Residential         | PCI < 46     |
| 3. | Collector and Above | PCI 70 to 75 |
| 4. | Residential         | PCI 46 to 69 |
| 5. | Residential         | PCI 70 to 75 |

When we entered the 2009 construction season the total backlog was estimated at \$5,417,330 for concrete streets, and \$2,162,887 for asphalt milling repair and overlay. The severe winter prevented completion of the street inventory following 2009 construction. Damage to streets in 2009-2010 has exceeded any gains made in 2009. Planning for 2010 began with work not budgeted in 2009. There were four high priority streets in the 2009 asphalt program which were deferred; they have been added at the top of the 2010 list.

The recommended list of streets to be considered for the 2010 program is attached as a spread sheet. It includes 12 sections totaling \$515,462, with one change as noted below. The streets recommended for repair are:

Street	From	To	Estimated Cost
Cottonwood	Franklin	Elson	\$16,268
Pierce	First	Third	\$16,540
Potter	Industrial Road	Walnut	\$60,472
Burton	Franklin	Green	\$8,085
Gardner	Oakland	Olive	\$16,269
Bluewing	East	Pintail	\$14,353
Gardner	Osteopathy	Centennial	\$25,194
Centennial	Missouri	Martha	\$110,100
Davis	Illinois	Hickory	\$109,370
Fible	Patterson	Orchard	\$27,371
Overbrook	Center	Vista	\$63,376
Main	Pierce	Normal	\$38,062

Streets recommended, but beyond current funding limits are:

Normal	Baltimore	Cottage Grove	\$120,008
Bradford	Jefferson Intersection		\$18,420
Bradford	Pierce Intersection		\$11,658
Bradford	Scott Intersection		\$11,658
Bradford	Fillmore Intersection		\$18,420
Luther	Stacy (storm)		\$78,790
Patterson	Halliburton (storm)		\$24,548

Concrete pavement repair is typically accomplished by removing and replacing individual slabs, as opposed to entire street sections. The work is normally scattered, and distributed throughout the city. Curb and gutter work is normally combined in a single contract with the pavement repair, since it is all done by the concrete contractor. In 2010 staff proposes to focus on specific areas, combining concrete repair, curb and gutter repair or construction, storm drainage improvements, and asphalt overlay where required.

Normal Avenue, from Baltimore to Cottage Grove was originally included in the funded portion of the 2010 program. It is my recommendation that it be deferred in favor of Centennial from Missouri to Martha. Centennial is virtually impassable, and any repairs

are quickly lost due to inadequate drainage. The Normal Avenue work was listed as a separate project in the 5 year TST plan, scheduled for 2010, but was deleted/deferred in favor of completion of Jamison Street, which is budgeted at \$700,000.

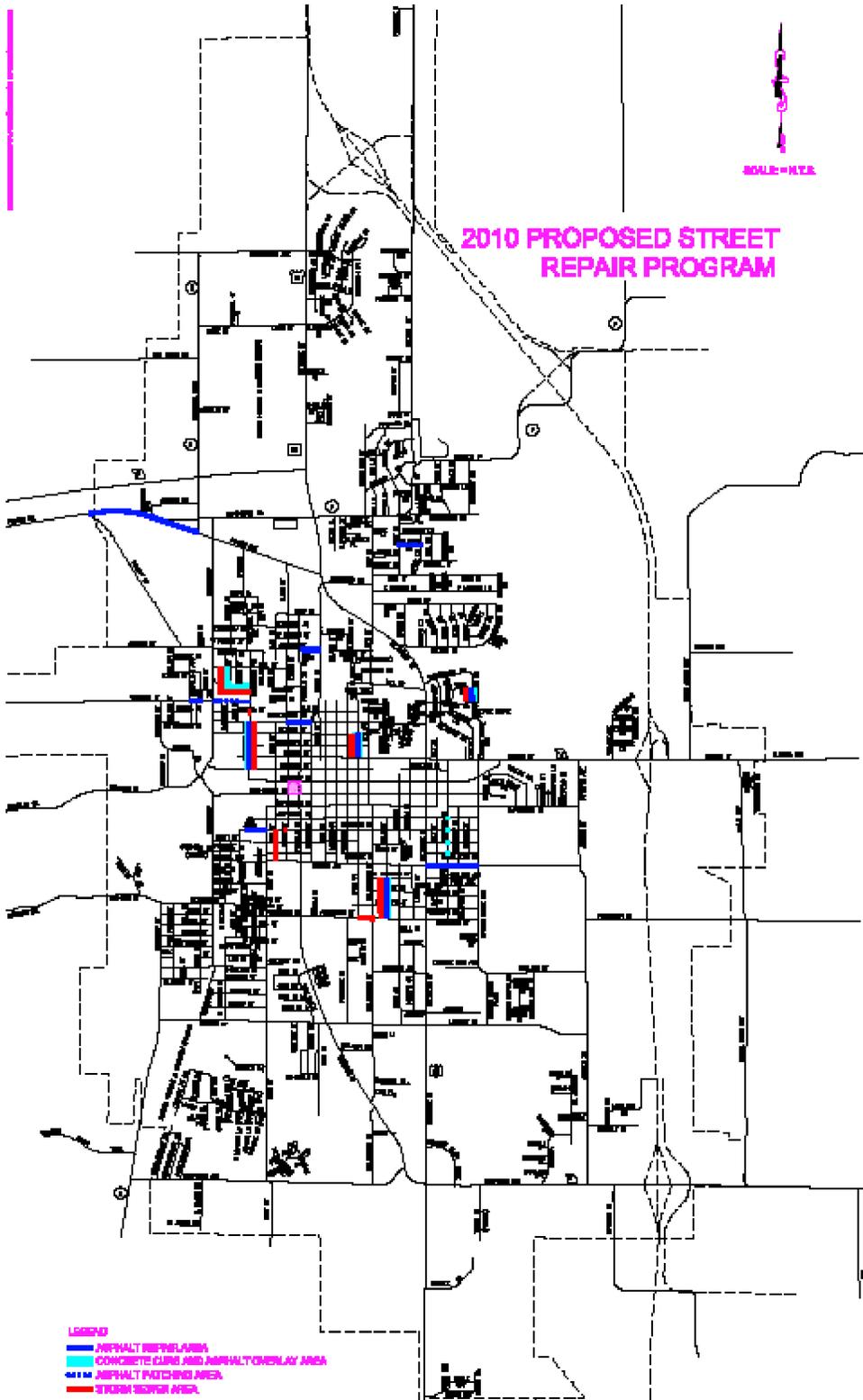
Weather and higher priority project design has delayed finalization of the 2010 lists. Following Council guidance on May 17<sup>th</sup>, reduction to meet budget constraints will follow, and the contract documents should be ready to advertise by late May.

As always there is significantly more work to be done than funds available. The proposal represents a prioritized list of work that should be done. Alternate or optional sections are listed. I seek Council's concurrence or input on both the overall priority used for this program, individual high priority street sections that may have been missed by staff's analysis and streets that should be deleted from this year's program.

Enclosures:

Spreadsheet, 2010 Street Repair Estimate, 4/6/2010  
Map, 2010 Proposed Street Repair





**2010 PROPOSED STREET  
REPAIR PROGRAM**



SCALE = 1" = 100'

- LEGEND**
- ASPHALT REPAVE AREA
  - CONCRETE CURB AND ASPHALT OVERLAY AREA
  - ASPHALT PATCHING AREA
  - STORM SEWER AREA

## KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

**SUBJECT:** Essential Air Service Air Carrier Selection

**STUDY SESSION MEETING DATE:** May 17, 2010

**CITY DEPARTMENT:** Airport

**PREPARED BY:** David A. Hall

### Summary of air carrier proposals

Each 24 calendar months, the US Department of Transportation, Essential Air Service division issues a RFP (request for proposals) from air carriers to provide air carrier services to communities such as Kirksville, MO. In anticipation of the end of Air Choice One's current contract on July 31, 2010, the DOT issued Order 2010-3-31, March 25, 2010, to solicit proposals from all interested air carriers to provide service at Kirksville, MO. In response to that order, the DOT received proposals from four carriers: Multi-Aero Inc. d/b/a Air Choice One (Air Choice One, the incumbent). Charter Air Transport, Hyannis Air Service d/b/a Cape Air (Cape Air), and Sovereign Air. The DOT asks for recommendation from the community for selection of the air carrier before they submit a recommendation to the Assistant Secretary.

As you are aware, we are well over the statutory \$200 subsidy per passenger cap, and our community's continued eligibility remains uncertain. As a result, DOT has ask that our comments should address the features of the various carrier proposals that we believe will result in increased passenger levels to lower the subsidy per passenger below the \$200 cap. DOT has asked for any comments no later than May 25, 2010.

### Summary of proposals for Kirksville

<u>Carrier/Option</u>	<u>Hub (# of round trips per day)</u>	<u>Aircraft</u>	<u>Annual subsidy amount</u>
Air Choice One option 1	St. Louis (2), Chicago O'Hare (1)	Navajo	\$836,605
Air Choice One option 2	Chicago O'Hare (2) St. Louis (1)	Navajo	\$739,841
Air Choice One option 3	St. Louis (3)	Navajo	\$847,618
Air Choice One option 4	St. Louis (3)	Caravan	\$899,254
Air Choice One option 5	Chicago O'Hare (3)	Caravan	\$582,938
Cape Air	St. Louis (3)	Cessna 402	\$1,422,110
Charter Air Transport	Kansas City (2)	Jetstream 32	\$1,383,015
Sovereign Air	Kansas City (2)	Cessna 401	\$371,636

\*Charter Air Transport proposes one round trip per week to Branson, MO that would not be subsidized.

Two of the four carriers that have submitted proposals currently lack any of the necessary elements for service. Charter Air Transport & Sovereign Air neither have current operations and are not legitimate contenders for successful operations in our delicate scenario, nor did they present to the selection committee.

Air Choice One, the incumbent has provided very reliable service, but has been reluctant to make changes to the service per our requests and to date has not provided the GDS component that we have desired. Air Choice One, in their presentation, has suggested that they will have the GDS component and that they could provide service to Chicago O'Hare.

Cape Air has established services in Quincy, IL & Cape Girardeau, MO and have been very successful. They have all of the necessary components established and in place. (GDS presence, baggage agreements, ticketing agreements, etc, etc..) These communities have suggested that they are very satisfied with their service and recommend them to us. Cape Air also has interline agreements with American Airlines and are in the main Terminal at St. Louis Lambert.

A selection committee consisting of various representatives from the community listened to the presentations from air carriers and have made recommendation to the Airport Transportation Commission that Cape Air, Inc. be selected for the next service contract. Also, an independent air service analysis through MoDOT Aviation by the Boyd Group International recommends that Cape Air, Inc. be selected by the community of Kirksville, MO for continued air service.

The EAS Program guarantees not less than fifteen seat service to each community, thus we will have to submit a letter waiving that right (as is with the incumbent airline).

It is with this information that staff recommends to Council that the community of Kirksville, MO select Cape Air for the next EAS contract period.

# Airport & Transportation Commission

May 10, 2010

Honorable Todd Kuhns and City Council  
201 S. Franklin St.  
Kirksville, MO 63501

RE: Essential Air Service Provider-Recommendation by Airport and  
Transportation Commission

Dear Mayor Kuhns and Council:

The Airport and Transportation Commission has participated in the recent public presentations by firms wishing to provide scheduled air service for the Kirksville Regional Airport, and has reviewed the findings and recommendations of the Airline Selection Committee.

It is the recommendation of this Commission that the City of Kirksville endorse the proposal from Cape Air, Inc. of Hyannis, Massachusetts.

Sincerely,



Ron Winkler, Chairman

Serving The Citizens Of The City Of Kirksville

Hi Dave & Mari,

For those that may have further questions about our current status in changing over our hosting system so that we can have more connectivity needed to be seen on more consumer websites is below...she is available this week in our office as she is training this week on our new system.  
She would be happy to answer questions that anyone may still have pertaining to our GDS status.

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Thank you,

Shane Storz  
CEO  
Air Choice One Airlines  
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**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

DEPT OF TRANSPORTATION

1200 New Jersey Avenue, SE  
Washington, DC 20590

April 28, 2010

David Hall  
Airport Director  
Kirksville Regional Airport  
27161 Airport Trail  
Kirksville, Missouri 63501

Dear Mr. Hall:

I would like to update you on the essential air service situation at Kirksville, Missouri, and give you an opportunity to submit any comments if you wish. In anticipation of the end of Air Choice One's current contract on July 31, 2010, the Department issued Order 2010-3-31, March 25, 2010, to solicit proposals from all interested air carriers to provide service at Kirksville. In response to that order, we received proposals from four carriers: Multi-Aero Inc. d/b/a Air Choice One (Air Choice One, the incumbent), Charter Air Transport, Hyannis Air Service d/b/a Cape Air (Cape Air), and Sovereign Air.

We have directed each carrier to serve its proposal(s) on you; in addition, copies of the proposals may be accessed online through the Department's Dockets Management System at: <http://www.regulations.gov/> by entering "DOT-OST-1997-2515" in the "Enter Keyword or ID" field, but we have summarized the proposals in the attachment provided.

My purpose in writing to you at this time is to request any final comments you might have on the carriers' service and subsidy proposals before we submit a recommendation on the carrier-selection issue to the Assistant Secretary for Aviation and International Affairs.

Please note that the average passenger fares shown in each proposal do not necessarily reflect the average local fare Kirksville passengers would actually pay, but, rather, reflect a prorated portion of the total ticket price, e.g., the Kirksville-St. Louis portion of a Kirksville-St. Louis-Washington, D.C. ticket that the subsidized carrier would realize. Also, the fare shown is net of certain charges such as Federal transportation security fees, excise or ticket taxes, and Passenger Facility Charges. Of course, carriers have the discretion to charge fares they deem appropriate, and the passenger fares presented in their proposals have been developed for subsidy rate computation purposes only.

You should also note that the schedules that the carriers have submitted are illustrative only, and that they may make schedule changes to reflect changing conditions, *e.g.*, to better meet shifting connecting bank times at the hub. The Department expects subsidized air carriers to maintain well-timed and well-spaced flights in order to ensure full compensation.

We request that you review each proposal and service option and submit any comments you may have before we submit a recommendation to the Assistant Secretary. As you are aware, Kirksville is well over the statutory \$200 subsidy per passenger cap, and the community's continued eligibility remains uncertain. As a result, your comments should address the features of the various carrier proposals that you believe will result in increased passenger levels to lower the subsidy per passenger below the \$200 cap. We ask that you submit any comments you may have as soon as possible, but in any case no later than May 25, 2010. We will carefully consider your comments before we submit a recommendation to the Assistant Secretary for a decision. We appreciate that there are significant issues for you to consider, so if you have any questions or if you find that you need additional time to draft your comments, please let us know.

Please send your comments to me at the following e-mail address: [EAS@dot.gov](mailto:EAS@dot.gov) or by fax to 202-366-7638. If you have any questions, please feel free to contact Kevin Schlemmer of my staff at [kevin.schlemmer@dot.gov](mailto:kevin.schlemmer@dot.gov) or 202-366-3176.

A similar letter has been sent to the Mayor of Kirksville.

Sincerely,

  
Dennis J. DeVany  
Chief, Essential Air Service Division, X-53  
Office of Aviation Analysis

## Summary of proposals for Kirksville

<u>Carrier/Option</u>	<u>Hub (# of round trips per day)</u>	<u>Aircraft</u>	<u>Annual subsidy amount</u>
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\* Charter Air Transport proposes one round trip per week to Branson, Missouri that would not be subsidized

**Public nuisance animal.** Any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of persons, other than its owner, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to, an animal that:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owners;
- (3) Molests or intimidates pedestrians or passersby;
- (4) Chases vehicles;
- (5) Excessively makes disturbing noises, including but not limited to, continued barking, howling or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (6) Attacks other domestic animals.

**Restraint.** When any animal is secured by a leash or lead under the control of its owner, agent or immediate member of the owner's family, and obedient to that person's commands.

**Vicious animal.** Any animal that attacks, bites, or injures human beings or other domestic animals without adequate provocation; or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or other domestic animals without adequate provocation; or which threatens to attack, bite or injure a human being or other domestic animal without adequate provocation.

(Ord. No. 10811, § 1(II), 3-21-88; Ord. No. 11831, § I, 4-1-2008)

**Sec. 5-8. Animals running at large.**

It shall be unlawful for the owner, or person in control, of any animal to let such animal run at large, whether licensed or not, at any time within the city.

(Ord. No. 10811, § 1(V), 3-21-88; Ord. No. 11831, § II, 4-1-2008)

**Sec. 5-9. Public nuisance animal.**

It shall be unlawful for the owner or person in control, of any animal to fail to exercise the proper care and control of his animal so as to prevent such animal from becoming a public nuisance animal.

(Ord. No. 10811, § 1(VI), 3-21-88; Ord. No. 11831, § III, 4-1-2008)

**Sec. 5-10. Vicious animals.**

(a) It shall be unlawful for any person to keep or harbor within the city any vicious animal, knowing the same to be vicious, unless the following requirements are met:

(1) Except as hereinafter provided, all vicious animals shall be confined indoors in such a manner that will not allow such animal to exit the building or structure on its own volition.

(2) No person shall permit a vicious animal to go outside the building or structure in which it is confined unless such animal is muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals, and either:

a. Confined to a securely enclosed and locked pen or kennel with sides and a secure top attached to the sides, or

b. Securely leashed with a leash or lead no more than four (4) feet in length, with the owner, his agent, or a member of the owner's immediate family in physical control of such leash or lead.

Such animals may not be leashed, chained or tied to inanimate objects such as trees, posts, buildings, etc.

(3) All owners, keepers or harborers of vicious animals shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Vicious Animal." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(b) The owner of any animal which attacks, bites or injures any human being or other domestic animal without adequate provocation, shall in addition to complying with the foregoing provisions, comply as follows: The owner of such animal must within seven (7) days after the date of such incident provide proof to the city clerk of public liability insurance in a single incident amount of ten thousand dollars (\$10,000.00) and an aggregate amount of twenty thousand dollars (\$20,000.00) for bodily injury to or death of any such person or persons resulting from the ownership, keeping or harboring of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the city clerk.

(Ord. No. 10811, § 1(VII), 3-21-88)

#### **Sec. 5-11. Disposition of attacking, biting, injuring animals.**

(a) Any animal which attacks, bites or injures a human being or other domestic animal without adequate provocation, shall be taken up and impounded by the animal control officer at the animal shelter so designated by the city or licensed veterinarian of the owner's choice, for a period of ten (10) days, the expense thereof, to be borne by the owner of such animal.

(b) If the animal has proof of current rabies vaccination, and the victim of the attack, bite or injury requests, the animal control officer may allow the animal to be securely and safely housed with its owners for the duration of the ten-day observation period.

(c) If within such period of ten (10) days the animal develops symptoms of rabies, then it shall be killed in a humane manner.

(d) If the animal does not develop symptoms of rabies at the end of such ten-day period, then it may be returned to the owner upon payment of boarding fees. The animal may be returned earlier if certified by a licensed veterinarian to be free of rabies.

(e) If the owner does not claim the animal within seven (7) days after the expiration of such ten-day period, it shall be disposed of as provided for in this chapter.

(f) If, based on a public safety concern, the police department can show cause that any animal should not be released pursuant to subsection (d), the municipal court will authorize that the animal be held until an action or disposition in court authorizes the release.

(g) If the owner, or person in control, of an animal is adjudicated as harboring a vicious animal, and the city can show cause that the release of the animal would create a continuing public safety hazard, the municipal court may authorize that the animal be permanently removed from the city limits, or killed humanely.

(Ord. No. 10811, § 1(VIII), 3-21-88; Ord. No. 11831, § IV, 4-1-2008)

#### **Sec. 5-18. Enforcement.**

(a) It shall be unlawful for any person to fail to comply with the terms of this chapter, or to interfere with an animal control officer in the performance of his duties.

(b) Any animal found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment.

(c) Any person violating or permitting the violation of any of the provisions of section 5-10 pertaining to vicious animals shall, upon conviction, be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each violation, or confined for a period of not more than ninety (90) days, or punished by both such fine and imprisonment. In addition the court shall order the license of the subject animal revoked, and the animal removed from the city. Should the defendant refuse to remove the animal, the court shall find the defendant in contempt, and order the immediate confiscation and impoundment of the animal.

(d) Any person violating or permitting the violation of any other provision of this chapter, shall upon conviction, be fined not less than fifty dollars (\$50.00) or not more than five hundred dollars (\$500.00) for each violation, or confined for a period of not more than ninety (90) days, or punished by both such fine and imprisonment.

(e) In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this chapter.

(f) Except with respect to knowingly keeping or harboring a vicious animal, violations of this chapter shall not require any particular state of mind on the part of the defendant, it being the intent to make all such violations of this chapter strict liability offenses.

(Ord. No. 10811, § 1(XV), 3-21-88)

**KIRKSVILLE POLICE DEPARTMENT**

**M E M O R A N D U M**

TO: Mari Macomber  
City Manager

FROM: Jim Hughes  
Chief of Police

DATE: April 28, 2010

REF: DOG BITE (PIT BULL) UPDATE/REPORT #4

As you are aware I have prepared three previous reports concerning pit bulls and dog bites in the City of Kirksville (previous reports are attached).

This memo will update available dog bite data since the last report (July 2006 through March 2010).

As a minor cautionary note - dog bite data is not tracked on a regular basis (we average over 2100 animal calls per year). Our old DOS based records management system does not allow us to generate this type of report automatically. Within those parameters staffed put together a rough spread sheet concerning recent dog bite data (attached). I have condensed the data into the following rough report (all numbers are approximate). It should be noted that each breed includes those identified as mixed breeds:

**July 2006 – March 2010**

<u>Dog-human bites with puncture wounds</u>	46
Unknown breed	10
Terrier	6
Unknown small/medium breeds	5
Pit Bull	3
German Shepherd, Heeler, Chihuahua, Lab, Poodle, Dachshund, Australian Shepherd, Beagle	2(for each breed)
Mastive, Boerboel, Bassett Hound, Akita, Border Collie, Boxer	1 (for each breed)

<u>Dog human bite/attack with no puncture (can include bruising, scratches, scrapes, etc.)</u>	17
Terrier	4
Small/medium unknown	4
Pit Bull	3
Min Pincher	2
Lab, Chihuahua, Boxer, unknown	1(for each breed)

**KIRKSVILLE POLICE DEPARTMENT**  
**MEMORANDUM**

TO: Mari Macomber  
City Manager

FROM: Jim Hughes  
Chief of Police

DATE: July 13, 2006

REF: PIT BULL ISSUES (Continuation from earlier discussion)

Pursuant to your memo dated 5/25/06, I could philosophize for 20 pages on all of the applicable issues (pro and con) associated with Breed Specific Legislation (bsl). The good news, I am not going to do that. Based on the totality of all the information that I have reviewed (some of which has been addressed in earlier memos), it is my opinion that a total ban on pit bulls (or any breed) is not warranted at this time. It is a tough call, and ultimately one that will have to be made by Council. With that said, I know that there will be further pit bull attacks, as there will be with all of the other breeds.

I think it is incumbent on us (City Staff) to provide copies of all citizen concerns/ correspondence relating to this type of dog complaint to Council Members. If they determine that further study or action is necessary, I will assist in whatever way I can.

With all of that said, I thought I would mention one of the many possible compromise positions (if it should become necessary). This would be a ban on future pit bull ownership (after a certain date), and additional insurance/licensing requirements/ restrictions for current owners. This future ban could be absolute, or allow current owners or those legitimately moving into town for the first time (with legally possessed pit bulls), to fall under this grandfather clause. In 10-15 years this would pretty much result in a total ban. Under this position you could tack on any other bsl restrictions you deem necessary, for example (non inclusive): non transferable ownership, mandatory neutering, increased registration fees, public muzzling, immediate notification of lost/missing animals, clearly visible ðpit bullö posting/notices on property, and specific fencing/security requirements on premises.

Reference to the increase in dog bites - I am not suggesting a direct correlation, however, I think it is interesting that the drastic increase in dog bites corresponds with losing the second animal control position early in 2004.

Reference bite severity - without reading each report, what I can tell you is that of those bitten between 7/26/05-5/21/06 (20), 55% required some type of medical treatment (82% at the E.R. and 18% with private physicians).

Reference our local licensing statute - unless there is a problem, we historically don't issue many tickets for non licensed pets. We can certainly change that, but I don't think it will significantly affect pit bull bites. A pit bull with a tag is no less likely to become aggressive than is one without a tag.

There are a couple of things we can do in the interim that could help us (and not just for pit bulls).

- In conjunction with enhanced license enforcement, the department should charge an appropriate fee for each animal license (\$2-\$10). This is a nominal fee that would allow us to recoup our expenses for the licensing process (tags, license forms, animal impound sheets, administrative time), and send animal control officer(s) to training (which they do not get very often).
- I would like to see Howard explore a statute that makes it easier to destroy or ban individual problematic animals. I dealt with one case that took months to resolve, and then only because the owner got tired of the court process. In the mean time, the two animals were being housed at the Humane Society for months.
- I would also recommend that Howard explore changing the language in the vicious animal ordinance. As it exists now, it requires that the person know that the animal is vicious. If possible, I would like that to be changed to know or "should have known."
- There may be some legal requirement that I am not aware of, but my question is, why would we allow any vicious animal in the city? As it currently exists people can have vicious animals as long as they adhere to a few safety restrictions. I would recommend a flat prohibition on vicious animals in the city.
- While we are at it, there is a section in the code that requires we take into custody any animal that bites someone. In many instances it is a family pet, with current proof of vaccinations, and the victim does not want it impounded. If we make any changes to the animal code, it would be a good time to soften that language.

There are way more issues reference to bsl than can be discussed here. I would be happy to meet with you and/or Council to discuss this matter further.

Let me know if you need anything else.

**KIRKVILLE POLICE DEPARTMENT**

**MEMORANDUM**

TO: Mari Macomber  
FROM: Jim Hughes  
DATE: May 24, 2006  
REF: UPDATE TO PREVIOUS MEMO (7/29/05 reference Pit Bulls)

This will be an update to my "Pit Bull Discussion" memorandum dated July 29, 2005. In the last few weeks there have been a number of dog bite calls involving Pit Bulls (or Pit Bull mixes), including a police officer. In reviewing the original memorandum, dated July 29, 2005, there is no change in the information provided. However, I did want to take this opportunity (in light of recent events) to update the data.

At the time of the original memo, 2005 was on schedule to be a record year for dog bites/attacks in Kirksville. In fact, last year did turn out to be a record. In 2005 there were 23 reported dog bites (or other attacks with injury). So far this year (through May 21st) we have 12 reported attacks (which puts us a little ahead of last year's record pace).

<b>2005</b>	<b>2006 (through 5/21)</b>
22% Unknown Breeds	33% Pit Bulls
17% Lab/lab mixes	25% Rottweilers
9% Boxers	17% Lab/mixes
9% German Shepherd/mixes	
9% Pit Bulls	

I am not sure whether the increase in Pit Bull (and Rottweiler) numbers for 2006 is an anomaly or the start of a long term trend (which will be monitored closely). As an aside, I will mention that anecdotally, I have been involved in more Pit Bull type calls over the last year than I can ever remember. I don't have an answer as to what has caused this increase.

I have attached a copy of my original memo with this update.

## KIRKSVILLE POLICE DEPARTMENT

### MEMORANDUM

TO: Mari Macomber  
FROM: Jim Hughes  
DATE: July 29, 2005  
REF: PIT BULL DISCUSSION

Per your request, I have looked at the issues surrounding local breed specific legislation (bsl), for dogs (e.g., pit bulls), in the City of Kirksville. Although each state is a little different in what it allows municipalities to regulate, I believe that if we can articulate a specific public safety interest, we can probably restrict pet ownership in Kirksville. Whether it will withstand a legal challenge is another question (better answered by Howard). However, if it is specifically crafted and narrowly focused on public safety, there should be no big problem. A number of states and municipalities have enacted bsl. Any number of courts have upheld such legislation.

Surprisingly there is no definitive data source for analyzing dog attacks/bites. There is no standard reporting requirement/system. Accurate information on bites/attacks is not easy to come by. In addition, some sources will favorably interpret the data in support of their position. In sifting through the data, to date, the following are some random points to consider/discuss (in no particular order).

There may be as many as 65-68 million dogs in the United States. Every breed of dog, or mix, can bite (from 1979-1998 at least 25-30 different breeds were involved in deadly attacks). Approximately 4.5-5 million people are bitten every year in the United States (Robert Plum, a retired professor from California State University at Chino, estimated that one dog in 55 will bite someone seriously during the course of a year). Since most who are bitten know the pet (or the owners) not every bite is reported. The more serious the bite (the bigger the dog) the more likely the report. In Kirksville we average approximately 10-15 dog-human bites per year.

It is estimated that over a 10-year period (1986-1996) dog ownership increased by 2%, whereas dog bites increased by 33%-36%. This is consistent with the local data from the last three years. In 2003 we had nine bites. In 2004 we had 11. So far, for the first seven months of 2005, we have had 14.

There is a difference in total dog bites and fatal bites. Each year approximately 20 people are killed in the United States due to dog attacks (the majority are children). There are some who claim that although dog bites are increasing, the number of fatalities remains relatively constant

(the data seems to support this position). The American Medical Association identifies dog bites as the second leading cause of childhood injury (surpassing playground accidents).

If an attack occurs, it is most likely to be a family pet or one belonging to a friend or neighbor. Although some breeds have higher reported bite rates, much depends on how they are raised, socialized, trained and cared for. In doing research for this paper, I ran across a Pomeranian mix who killed a 6-week-old child in 2000.

Pit Bulls have been around a long time (Pit Bull is not an official breed but is considered slang for a type of dog). Some form of bsl, specific to Pit Bulls, has been around for 25 years. They were bred in the 19<sup>th</sup> century to bait bulls (originally bred from the English Bulldog). After that sport was banned, they were used for dog fights.

It seems to me, from what I have read, that there is a predisposition to aggression toward other dogs/animals. There is a lot of breed specific information out there that describe any number of positive and attractive attributes to this type of dog and the value to pit bull ownership. The following will list, as objectively as I can, cautionary information about Pit Bulls, as discussed by Pit Bull owners/breeders/proponents. Pit Bulls are medium sized, but solidly built dogs with extremely high muscle density and an extreme tolerance to pain. They are described by their owners as "tough...powerful ...tenacious...precocious." They can be difficult to handle and are not for everyone (they are also described as escape artists). They do have the potential to inflict serious injuries to other animals and humans. Their urge to fight other animals, can arise at anytime and they may exhibit an intense "prey drive." Some of the breeds included in this classification are the American Bulldog, the American Pit Bull and the American Staffordshire Terrier. If you are a fan of the old Little Rascals movie serial, this would have included "Petie."

At least one study suggests that Pit Bulls are twice as likely to be involved in a fatal attack than any other breed. However, since there are so many dog bites, and so few fatalities (although one is too many), one question is whether bsl will significantly reduce total bites. In Kirksville Pit Bulls have been involved in three reported bite cases in the last 2.5 years (9% of the total). As a comparison to others, local data shows that 24% of bites in Kirksville are related to some form of lab/retriever (and their associated mixes). Four other breeds account for 6% of bites, each. 24% of bites are attributed to dogs for which we do not have breed specific information.

Some of the breeds that have been restricted in bsl, are Rottweilers, Pit Bulls, Chow chows, German shepherds and Doberman Pinschers. However, it is estimated by some, that as many as 67%- 75% of deaths are attributed to pit bull type dogs and Rottweilers.

Many pet owners (which include Pit Bulls) are often quite passionate. There are groups out there that challenge breed specific legislation. Any discussion on this issue will likely generate vocal proponents on both sides of the issue.

There are pet owners, of any number of breeds, who train their dogs to be what I call "bullets on a leash." Some want their animals to be intimidating. It is estimated that as many as 40% of dog owners get them for protection. Macho type dogs have evolved over time to reflect cultural changes. Every few years (kind-of a generational thing) some dog is the focus of similar concerns. Some say that in the 70's German Shepherds were the breeds with the fiercest reputation. Since that time it has moved to Dobermans, Rottweilers and now Pit Bulls. Some

who are against bsl believe that whenever you ban one aggressive dog, those that use their pets as weapons will hide/or attempt to subvert the bsl (or move underground), or switch to another non banned breed.

Breeds, especially mixes, are difficult to identify. Even experts may not be able to tell. One study stated that it was the mixed breed, not pure breed dogs, which most often bite people.

One report stated that Pit Bulls make up 1% to 3 % of the overall dog population but cause more than 50% of serious attacks (in Kirksville they make up 5% of total registered animals). However, I am not sure how accurate this is as no one knows how many pit bulls there are.

There are costs to this type of enforcement (Ohio recently overturned a similar ban ãafter costs of enforcement dramatically increased.ö)

If we enact some form of bsl, do we take a proactive approach to enforcement, or do we wait for a complaint (which brings with it its own enforcement problems)? What breeds do we ban and what about the mix problem (one of our local pit bull cases turned out later to be a boxer)?

Anyway, this is some general background information for future discussion. Let me know if you need anything else.

Event #	Animal	Type of Dog	Wound description
	ringtale		
2006072047	lemur	lemur	Laceration to arm
2006072347	cat		bite/scratch arm
2006080465	barking dog		
2006082058	cat		minor
2006082396	Blank		
2006090670	Blank		
2006091403	barking dog		
2006092137	no narrative		
2006100283	no bite		
2006102624	dog	doberman type	bit another dog
2006110734	dog	not mentioned	scrape
2006111881	dog	small long haired	scratch
2007012338	bat		not bat
2007030126	barking dog		
2007030600	dog	german shepherd	2 small punctures
2007031380	dog	german shepherd	shallow puncture
2007031809	dog	small white dog	no skin break
2007031961	dog	pit bull	attempt
2007032130	dog	???	small cut to finger
2007032258		no bite	
2007032312	dog	small terrier	swelling
2007040771	dog	small terrier	left eye required stitches
2007041419	dog	brown/white	did not mention bite
2007041906	dog	english mastive	puncture above & below mount
2007042303	dog	Jack Russell	scratched arm
2007052424	dog	S African Boerboel	bruise, 1 puncture
2007052450	dog	pit bull	right palm
2007060470	dog	Heeler	broke skin lower leg & upper thigh
2007060576	dog	chihuahua	red mark
2007061518	dog	?? Family dog	cut above eye
2007071613	dog	3 mutts fighting	partial finger amputation
2007072730	dog	rat terrier	shallow face/arm
2007081170	dog	at large	no bite
2007091362	dog	terrier	small cut-abrasions
2007100685	cat		scratches, bite on cheek
2007102235	dog		barking
2007110484	dog		barking
2007110820	dog	chihuahua	cut to toe
2007120211	dog		barking
2007121404	dog	small poodle	punctures to arm and hand
2008020024	dog	min pincher	bruise
2008021098	dog	pit bull	attack another dog
2008030903	dog	lab	scraped finger
2008032138	cat		scratches to arm
2008041842	dog	rotweiler	bit another dog
2008050388	dog		loose dog
2008050988	dog	rat terrier	scrapes, bruising

2008051175	dog		quarentine check
2008060547	dog	????	bite owner on stomach while fighting
2008061182	dog	lab	acting aggressive
2008062092	dog		Barking
2008062251	dog	2 pit bills	bite attempt
2008072640	dog	med size dog	puncture wound face around eye
2008080215	dog	med size dog	2 small puncture bruises
2008080778	dog	Terrior mix	bite rt forearm
2008081038	dog	unfounded	unfounded
2008081065	original event	2008081038	
2008091124	dog	unknown	bite no other info
2008092190	dog	small white dog	small laceration rt lower leg
2008092645	dog	2 dogs fighting	no bite marks/no human involved
2008101414	dog	dachshund	fingerbite
2008110550	dog	jack russell terrior	right hand bite
2008110898	dog	small white/black dog	bite
2008122057	dog	bassett hound	bite
2009012269	dog	hunting dog	bite
2009020776	dog	black lab	bite face
2009032137	dog	white med size dog	sm cut rt finger
2009032208	dog	unknown	unknown
2009032577	cat		
2009040275	dog	akita	bite upper leg and back
2009041864	dog	pitbull	small open wound
2009050163	dog	australian shepherd	wounds left ankle
2009050918	dog	pitbull	fighting another dog/no human involved
2009051166	cat		
2009051174	dog	lg black dog	another dog/no human involved
2009051387	dog	Malti-poo	hand puncture
2009051715	dog	yellow lab	bite knee
2009051905	dog	coonhound	barking dog/no wounds
2009051945	cat		
2009052403	dog	pitbull	another dog/no human involved
2009060830	dog	small brown dog	2 puncture wounds left leg
2009060978	original event	2009060830	
2009061692	original event	2009060830	
2009061889	dog	border collie mix	left forearm 2" gash
2009070811	dog	beagle	lower right leg bite
2009071218	dog	australian shepherd	thumb bite
2009072919	dog	blue healer/boxer mix	bite leg
2009072928	dog	pitbull	unknown
2009080711	dog	unknown	bite
2009080853	dog	boxer	nose purple coloring
2009083357	dog	Rot/Pit Bull mix	superficial scratch
2009090107	cat		
2009090266	dog	chihuahua	bite left thigh
2009090273	dog	boxer	bite
2009090598	dog	beagle	puncture wound middle finger
2009091418	dog	woolly br/wh dog	small tear in face
2009092354	dog	unknown	bite
2009093133	cat		

2009103429	dog	Pom/Jack Russell Staffordshire Bull Terrior	bite top left hand
2009121329	dog	dog loose	small abrasion left leg
2009121599	dog	dog loose	
2009122165	dog	pitbull	bite index finger
1010011051	dog	mixed breed	nip on finger no mark
2010020054	kitten		
2010020992	dog	dachshund	bite index finger
2010022325	dog	jack russell terrior	puncture wound hands
2010031314	dog	pitbull	claw scratched eye
2010032324	dog	pitbull	attacked another dog
2010032722	dog	med size dog	scratched leg
2010041733	dog	min pincher	minor-leg
2010041998	unfounded		

## WORKER 6 Animal Claims since 1984

June 1984	Water customer service bitten by dog
August 1988	Parks employee bitten by a snake
August 1990	Animal control officer bitten by a dog
May 1995	Water customer service bitten by two dogs
May 1996	Animal control officer bitten while loading a dog
July 1996	Public works employee bitten by a cat
July 1997	Water customer service bitten by a dog
September 1997	Water customer service bitten by a dog
February 2001	Police officer bitten by a cat
October 2001	Animal control officer bitten by a raccoon
March 2002	Firefighter bitten by a cat
August 2002	Water customer service bitten by a dog
November 2002	Animal control officer bitten by a dog removing it from the box
September 2003	Police officer strained shoulder trying to control an aggressive dog
November 2003	Water customer service bitten by a dog on knee
September 2006	Animal control officer bitten by a stray dog
December 2006	Police officer attacked by three dogs while responding to a call
January 2007	Animal control officer bitten by a cat
March 2009	Animal control officer bitten by a dog removing it from the box

Vicious dogs present a safety problem for the meter readers. The dogs that are issues are outdoor dogs that are territorial. They generally are not kept confined within a fence but are kept on chains that either prevent the meter readers from reading the meters or remotes. Over the past 15 years, I have had five vicious dog attacks on my meter readers. There are addresses that the meters cannot be read and have to be estimated due to not being allowed access to the meter or remote. If the meter reader can reach a door to the residence, they will leave a door hangar in order to have an appointment set up to go back and read the meter while the dog is constrained. This is not an efficient use of their time. The following are their comments about the vicious dogs located at the following addresses:

725 W. Shelby ó 5 pit bulls

704 W. Shelby ó mean pit bull or boxer

Eastern Village Trailer Court ó full of German shepherds

107 Town & Country Trailer Court ó pit bull

14 Town & Country Trailer Court ó pit bull (occupant of trailer lets out when they see meter man)

1201 N. Franklin ó pit bulls

1011 N. Main ó big pit bull

2101 W. Gardner ó big mean pit bull on chain

501 S. Baltimore ó pit bull on porch with pups (meter reader cannot get close to remote)

506 S. Stanford ó 2 pit bulls

209 E. Elm ó 2 pit bulls and litter of pups

903 N. Florence ó pit bulls

1226 N. main ó mean Rottweilers

Centennial & Mill ó at least 5 boxers

Hickory & Osteopathy ó pit bull (dog came after meter reader who used whole can of dog mace before the dog stopped short of his legs)

1418 E. Normal ó pit bulls

516 W. Porter ó mean boxer

215 S. Franklin ó 6 full grown mean German shepherds

800 block N. Davis ó pit bulls at several houses

2405 N. Lincoln ó Dalmations in fenced backyard (customer has to call to set up appointment for meter to be read)

Woodland Village ó meter reader has been chased by a pit bull roaming loose

Per the meter readers, this listing represents only a portion of the vicious dogs in Kirksville that they have experienced issues with in reading meters.