



MERCED COUNTY BOARD OF SUPERVISORS

SUMMARY ACTION MINUTES

Regular Meeting
TUESDAY, APRIL 11, 2000
Closed Session – 9:00 a.m.
Regular Meeting – 10:00 a.m.

MERCED COUNTY
ADMINISTRATION BUILDING
2222 "M" STREET
BOARD ROOM, THIRD FLOOR
MERCED, CALIFORNIA 95340
(209) 385-7366

GLORIA CORTEZ KEENE.....DISTRICT 1
KATHLEEN M. CROOKHAM....DISTRICT 2
JOE RIVERO.....DISTRICT 3
DEIDRE F. KELSEY....DISTRICT 4
CHAIRMAN JERRY O'BANION.....DISTRICT 5
Lydia A. Beiswanger, Chief Clerk

GREGORY B. WELLMAN
COUNTY ADMINISTRATIVE OFFICER

DENNIS MYERS
COUNTY COUNSEL

*All supporting documentation is available for public review in the Office of the Clerk of the Board of Supervisors located in the County Administration Building, Third Floor, 2222 "M" Street, Merced, California, 95340
During regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday.
(209) 385-7366*

SCHEDULED ITEMS

9:00 A. M.

CLOSED SESSION - CONFERENCE WITH LABOR NEGOTIATOR: It is the intention of the Board to meet in Closed Session concerning a conference with County of Merced negotiators, Gregory Wellman-County Administrator and Bev Morse-Assistant County Administrator concerning negotiations with American Federation of State, County and Municipal Employees (AFSCME), Units 4, 5, 6, and 8 and Independent Employees of Merced County (IEMC), Unit 3

9:00 A. M.

CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION: It is the intention of the Board to meet in Closed Session concerning a conference with Legal Counsel pursuant to Government Code Section 54956.9, Subdivision (c) as follows:
Ventura County Retirement cases, San Francisco County Judicial Coordination Proceedings No. 4849
CHAIRMAN ADVISES CLOSED SESSION WAS NOT HELD

10:00 A. M.

PLEDGE OF ALLEGIANCE

PRESENTATION – Contribution to Hilmar, Le Grand, and Delhi High Schools from the Merced/Mariposa Narcotic Task Force for Sober Graduation Programs

SHERIFF, CHIEF PROBATION OFFICER AND DISTRICT ATTORNEY PRESENTED CHECKS ON BEHALF OF THE MERCED/MARIPOSA NARCOTIC TASK FORCE IN THE AMOUNT OF \$1,000 EACH TO HILMAR, LE GRAND, DELHI HIGH SCHOOLS FOR SOBER GRADUATION PROGRAMS

PUBLIC OPPORTUNITY TO SPEAK ON ANY MATTER OF PUBLIC INTEREST WITHIN THE BOARD'S JURISDICTION INCLUDING ITEMS ON THE BOARD'S AGENDA, EXCEPT FOR THOSE ITEMS SPECIFICALLY SCHEDULED AS PUBLIC HEARINGS (See Board Clerk - Testimony limited to five minutes per person)

UC MERCED PROJECT

- (1) Liaison and Project Director Report
RECEIVED REPORTS FROM LIAISON REPRESENTATIVE KATHLEEN CROOKHAM, AND PROJECT DIRECTOR GREG WELLMAN
- (2) Actions/Direction
- (3) Public Comment

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 8)
APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:30 A. M.

PUBLIC WORKS – PUBLIC HEARING

To consider the purchase of the building at the northeast corner of 22nd and "O" Streets currently leased by the Environmental Division of the Health Department

REVIEW BOARD ORDER – PAGE 7
AUTHORIZED PURCHASE OF REAL PROPERTY LOCATED ON THE NORTHEAST CORNER OF 22ND AND "O" STREETS (APN 30-72-17) FOR \$600,000 PLUS CLOSING COSTS, REPLACEMENT OF EXISTING ROOF AND PERFORMANCE OF MINOR REPAIRS FOR AN ESTIMATED COST OF \$120,000 AND AUTHORIZE CONTRACT DOCUMENTS BE RETURNED TO THE BOARD AS INFORMATION AYES: ALL

10:30 A. M.

PLANNING – PUBLIC HEARING

Appeal of Planning Commission approval of Conditional Use Application No. 99025 – Pac Bell/McMutry

To construct a 122 foot high communications tower and equipment building on property located at the south side of Mission Avenue, one-half mile east of Burchell Avenue in the Le Grand area

REVIEW BOARD ORDER – PAGE 8, 9, 10

DENIED APPEAL AND UPHELD THE DECISION OF THE PLANNING COMMISSION TO APPROVE CONDITIONAL USE APPLICATION NO. 99025 SUBJECT TO CONDITIONS WITH MODIFICATION TO CONDITION NO. 4 **AYES: 2, 3, 4, 5** **NOES: 1**

REPORTS/BOARD DIRECTION

County Administrator

County Counsel

Board of Supervisors Members

RECEIVED REPORTS FROM BOARD MEMBERS, COUNSEL, AND CAO

CONSENT CALENDAR (Items #1 – 8)

APPROVED AS RECOMMENDED **AYES: ALL**

1. Approve Budget Transfer for Risk Management-\$5,200 as recommended by Administration.
2. Set public hearing for May 2, 2000 at 11:00 a.m. to consider Resolution creating the Atwater RRC #1 Bridge and Major Thoroughfare Area of Benefit establishing fees to defray the cost of roadway improvements necessary as a direct result of anticipated growth within the Atwater RRC #1 study area, Public Works.
3. Set public hearing for May 9, 2000 at 10:30 a.m. to consider Resolution to terminate maintenance on a portion of Jordan Road in the Le Grand area, Public Works.
ADOPTED RESOLUTION NO. 2000-59
4. Adopt Resolution authorizing Chairman to sign Contract No. 8768 with Calif. Integrated Waste Management Board for Used Oil Recycling Block Grant Sixth Cycle Application, Health.
ADOPTED RESOLUTION NO. 2000-60
5. Approve and authorize Chairman to sign Contract No. 200072 with The Abaris Group for Consulting Services to assist in the development of Emergency Medical Services for Children Project, Health.
6. Approve and authorize Chairman to sign Amendment to Contract No. 8549 with State Dept. of Health Services for Childhood Lead Poisoning Prevention Program incorporating various ministerial changes in invoicing procedures/balance of grant encumbrance, Health
7. Approve and authorize Chairman to sign Renewal Contract No. 9440 with Information Systems for Intra County Electronic Data Processing for FY 2000/2001, Human Services Agency.

8. Approve and authorize Chairman to sign Amendment to Contract No. 99111 with Human Services Agency for increase in funds by \$46,859 for Linkages and Respite Purchase of Services Program, Area Agency on Aging.

REGULAR CALENDAR

BOARD ACTION

9. Public Works re: Preparation and circulation of Request for Proposal to lease the northern parcel of the Old Belcher Road Correctional Site, except for the 3 acres on the western boundary and return to the Board with results.
APPROVED AS RECOMMENDED AYES: ALL

10. Public Works re: Authorize Lake Yosemite Boat Launching Facilities Project – Repair and Sealing of Parking Lot for bid, set bid opening date for April 27, 2000 at 10:00 a.m., approve necessary budget transfer, authorize Public Works Director to award and sign contract with lowest acceptable bidder and return to the Board with results. (4/5 Vote Required)
PULLED FROM DISCUSSION AND CONTINUED TO APRIL 18, 2000 MEETING
*****RECONSIDERED LATER IN THE DAY AND APPROVED AS RECOMMENDED**
AYES: ALL

11. Health re: Contract with State Dept. of Health Services for Safe Communities Injury Prevention Project and approve the necessary budget transfer. (4/5 Vote Required)
APPROVED AND AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200073
AYES: ALL

12. District Attorney re: Contract with Advanced Legal Service as primary contractor for Process Serving Services inside the State of California as required and Contract with ABC Legal Messengers, Inc. dba Process Forwarding International as contractor for Process Serving Services outside the State of California only as required.
PULLED FROM DISCUSSION

13. Area Agency on Aging re: Contract with Catholic Charities of the Diocese of Fresno for Foster Grandparent Program.
APPROVED AND AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200074
AYES: ALL

14. Human Services Agency re: Answers Benefiting Children Grant Long Term Planning Report.
APPROVED AS RECOMMENDED AYES: ALL

15. Private Industry Training Department re: Approve the JTPA Closeout Plan.
APPROVED AS RECOMMENDED AYES: ALL

16. Administration re: Authorize a change in out-patient mental health counseling from the current benefit to a \$15 co-payment with a maximum of 20 visits per calendar year to be effective May 1, 2000.
APPROVED AS RECOMMENDED AYES: ALL

17. Assessor re: Contract with State Department of Finance for continued participation in the State-County Property Tax Administration Program as per Assembly Bill 719.
APPROVED AND AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 9978
AYES: ALL
18. District Attorney re: Merced County Rural Crime Prevention Program Grant – Add one Deputy District I/II/III/IV, Range 60.5/64.8/68.7/72.0; two Deputy Sheriff I/II, Range 58.3/60.3; one Variable Shift Support Services Assistant, Range 51.6 and direct review of Account Clerk I/II position; approve Inter-departmental Contract between District Attorney, Sheriff and Ag. Commissioner which outlines operation and coordination of services and approve the necessary budget transfers.
APPROVED AND ADOPTED RESOLUTION NOS. 2000-61 (OCJP Participation) AND 2000-62 (Personnel) **AYES: ALL**
19. Administration re: Authorize letters of support for Senate Concurrent Resolution 66 and Senate Bill 1560 designating a portion of Highway Route 140 as the John Muir Highway and enabling the Mariposa County Board of Supervisors to designate a specified portion of Highway 140 as a scenic highway. **REVIEW BOARD ORDER – PAGE 7**
CONTINUED TO APRIL 18, 2000 MEETING FOR FURTHER DISCUSSION **AYES: ALL**
20. Board of Supervisors re: Committee/Commissions and Boards.
 Merced County Mosquito Abatement District
APPOINTED ROBERT CARDOZA TO THE MERCED COUNTY MOSQUITO ABATEMENT DISTRICT AS A MEMBER-AT-LARGE UNTIL 12/31/2001 **AYES: ALL**

BOARD INFORMATION AND POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE **AYES: ALL**

21. Superior Court of County of Merced re: Notice effective July 1, 2000, the Superior Court will terminate participation in the County Risk Management pool (General Liability) for services for defense and indemnification of third party claims and litigations against the Superior Court, its judges, subordinate judicial officers and court employees per direction of the California Judicial Council.
22. Superior Court of the County of Merced re: Notice effective July 1, 2000, the Superior Court will no longer use the services of Merced County Counsel per direction of the California Judicial Council.
23. San Benito County Board of Supervisors re: Letter to elected officials from within the region that will likely be most affected by the development of the Coyote Valley Research Park.
REFERRED TO STAFF FOR ADDITIONAL INFORMATION WITH POSSIBLE REPORT TO COME BACK TO THE BOARD **AYES: ALL**

24. Kern County Board of Supervisors re: Request for support for AB 2495, (Ashburn) to prohibit local government agencies that conduct governmental functions outside their boundaries from overriding the local zoning, building and health and safety regulations of other jurisdictions and opposition to SB 1956 (Polanco) which effectively prohibits enactment or enforcement of any local sludge ordinance that is stronger than the federal or state standard.

REFERRED TO ENVIRONMENTAL HEALTH AND COUNSEL FOR ADDITIONAL INFORMATION WITH POSSIBLE REPORT TO COME BACK TO THE BOARD

AYES: ALL

25. Glenn County Board of Supervisors re: Fouts Springs Youth Facility Environmental Assessment.
26. Madera County Board of Supervisors re: Letter to Governor encouraging appointment to the position of Director of Office and Planning Research.
27. Lao Family Community, Inc. re: Letter of request to Human Services Agency for continuance of Refugee Employment and Social Services Funding from May 1, 2000 to April 30, 2001. (On file with Clerk)
28. Los Angeles County Board of Supervisors re: Letter from Clerks of the Board of Supervisors Legislative Committee to request State Board of Equalization reject the proposed language of Rule 305 which create a substantial and indeterminate mandate county cost that have not been addressed during the rule-making.

ADOPTED RESOLUTIONS AND ADJOURNED THE MEETINGS IN MEMORY OF JACK VANN AND MRS. KATHERINE HOLMAN UNTIL APRIL 18, 2000 AT 9:00 A.M.

SUMMARY ACTION MINUTES – BOARD ORDERS – APRIL 11, 2000

ACTION ITEM NO. 19

2000-04-11 ADMINISTRATION - Senate Concurrent Resolution 66 and Senate Bill 1560

Supervisor Rivero moves, seconded by Supervisor Crookham, the Board authorize letters of support for Senate Concurrent Resolution 66 and Senate Bill 1560 designating a portion of Highway Route 140 as the John Muir Highway and enabling the Mariposa County Board of Supervisors to designate a specific portion of Highway 140 as a scenic highway.

Supervisors Kelsey and Cortez Keene express concern citing lack of public input. Supervisor Kelsey recommends deferring the item until correspondence is received from Mariposa County.

Following a lengthy discussion Representative for Senator Monteith Mark Hendrickson responds advising he will report back on the impact of tabling this issue.

Later in the day, Mr. Hendrickson advises this issue will be scheduled before the State Legislators prior to April 28, 2000.

Following discussion on input from Mariposa Board of Supervisors, Chamber of Commerce and Planada Economic Development Corporation and upon motion of Supervisor Kelsey, seconded by Supervisor Rivero, duly carried, the Board continues authorization of support for Senate Concurrent Resolution 66 and Senate Bill 1560 designating a portion of Highway Route 140 as the John Muir Highway and enabling the Mariposa County Board of Supervisors to designate a specified portion of Highway 140 as a scenic highway until April 18, 2000.

Ayes: O'Banion, Cortez Keene, Crookham, Rivero, Kelsey

10:30 A. M. SCHEDULED ITEM

2000-04-11 PUBLIC WORKS - Public Hearing – Building Purchase at 22nd and "O" Streets

The time and date previously set for a public hearing to consider the purchase of the building at the northeast corner of 22nd and "O" Streets currently leased Environmental Division of the Health Department submitted by Public Works.

The Chairman asks if there is anyone present who wishes to speak. No one speaks.

Following discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board authorizes the purchase of property located on the northeast corner of 22nd and "O" Streets in the amount of \$600,000 plus closing costs of \$5,000; authorizes the Public Works Director to execute all documents associated with said purchase and approves the replacement of the existing roof and perform minor repairs for an estimated cost of \$120,000.

Ayes: O'Banion, Cortez Keene, Crookham, Rivero, Kelsey

10:30 A. M. SCHEDULED ITEM

2000-04-11 PLANNING - Public Hearing - Conditional Use Application No. 99025 - McMurry/Pacific Bell Wireless

The time and date previously set for a public hearing to consider An Appeal of Planning Commission approval of Conditional Use Application No. 99025 submitted by Kathleen and Robert Lopez. Said Application submitted by Clyde/Elizabeth McMurry and Pacific Bell Wireless is to construct a 120 foot high communications tower and equipment building on property located at the south side of Mission Avenue, one-half mile east of Burchell Avenue in the Le Grand area.

Deputy Planning Director Butch Cope reviews the Planning Staff Report and advises the Planning Commission recommends approval of Conditional Use Application No. 99025. The Planada and Le Grand Municipal Advisory Councils and Farm Bureau and Aerosprayers were notified and no comments were received.

The Chairman asks if there is anyone present who wishes to speak.

Appellant Kathleen Ann Simerman-Lopez reads a letter in opposition of the application stating health concerns, the negative impact to their area and questions comments made by Pacific Bell representatives on the Board's position and questions CEQA exemptions.

Mrs. Lopez submits a petition in opposition of the project and welcomes any interested Board Members to visit her home to see the negative impact this will be placing on she and her family.

An 11 year neighbor resident speaks in opposition of the Application.

Le Grand resident Bessie Castillo speaks in opposition requesting more time to educate the community and notice to be provided to the Spanish speaking.

Consultant Chuck Johnson representing Pacific Bell Wireless briefly comments on his background and experience.

Pacific Bell Representative Cheryl Lanning responds to and reviews the location and requirements by local jurisdiction stating he objects to comments made regarding lack of opportunity to review the proposal and Appellant's concerns stating the goal of Pacific Bell is to work with communities and better serve their customers by providing service in remote areas. She reiterates the tower is temporary due to satellite communication to take place in the near future.

Following discussion and upon motion of Supervisor Rivero, seconded by Supervisor Crookham, the Board deny the appeal, uphold the decision of the Planning Commission and approve Conditional Use Permit 99025 subject to conditions:

1. Conditional Use Permit is granted only for the following uses: Construction and operation of a 120-foot tall telecommunications tower and accessory equipment structures.
2. The project shall comply with the standards listed in Merced County Zoning Code Chapter 18.47.24.
3. After construction, the project site shall be unmanned except for periodic inspections by technicians.

4. A financial assurance in the amount of \$7,000 shall be provided to Merced County prior to issuance of a building permit for removal of the tower if inactive for more than one year. Proof of continuous operation of the tower shall be provided to the Planning and Community Development Department when requested.
5. Any lease agreements must be approved by the Planning and Community Development Department prior to issuance of a building permit. These agreements must allow co-location by other carriers.
6. The applicant shall favorably consider all requests for collocations where technically possible (using industry standards for interference at the usual rates and charges for this industry). In the event the applicant and any proposed collocator cannot agree, the parties shall submit the issue to the Planning and Community Development Director for binding arbitration. Failure to cooperate with proposed collocators or to engage in arbitration in the event of a dispute shall constitute grounds for revocation of the Use Permit.
7. The project shall comply with the standard conditions of approval listed in Planning Commission Resolution No. 97-1.
8. Building setback shall be 25 feet from the existing Mission Avenue right of way line.
9. The applicant shall obtain an encroachment permit from the Department of Public Works Road Division, pay plan check and inspection fees, and construct one rural residential driveway approach on Mission Avenue to serve the property. The applicant shall submit plans to the Road Division for approval to place underground utilities across Mission Avenue under separate encroachment permit. All work authorized by encroachment permit shall be completed prior to the implementation of the use permit.
10. The tower shall be lighted. Lighting shall be hooded and directed away from adjoining property and public rights-of-way. No blinking or flashing lights shall be allowed unless requested by a public agency.
11. For the purpose of mitigation and/or condition monitoring, an initial inspection fee in the amount of \$100.00 shall be required. This fee shall be paid prior to issuance of a Building Permit.

Supervisor Cortez Keene states she cannot support the motion without Municipal Advisory Council consideration and community education occurring.

Supervisor Kelsey questions Condition No. 4 and recommends the following language change/amendment:

4. A financial assurance in the amount of \$7,000 shall be provided to Merced County prior to the issuance of a building permit or technical advancement if it is economically feasible to remove the tower if inactive for more than one year. Proof of continuous operation of the tower shall be provided to the Planning and Community Development Department when requested.

Following further discussion, Supervisor Kelsey moves, seconded by Supervisor Rivero, to amend Condition No. 4 as stated.

Pacific Bell representatives state they are not opposed to the amendment.

The Chairman calls for a Vote on the Amendment.

Supervisor Cortez Keene votes "no". Motion carries.

Ayes: O'Banion, Crookham, Rivero, Kelsey

Noes: Cortez Keene

Following discussion, the Chairman calls for a vote on the Motion with the Amendment to Condition No. 4.

Supervisor Cortez Keene votes "no". Motion carries.

Ayes: O'Banion, Crookham, Rivero, Kelsey

Noes: Cortez Keene