



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, MARCH 18, 2003

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
CHAIR KATHLEEN M. CROOKHAM.....DISTRICT 2
MICHAEL G. NELSON.....DISTRICT 3
DEIDRE F. KELSEY.....DISTRICT 4
JERRY O'BANION.....DISTRICT 5
Lydia A. Beiswanger, Chief Clerk

DEMITRIOS O. TATUM
COUNTY EXECUTIVE 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 REAL PROPERTY NEGOTIATOR: It is the intention of the Board to meet in Closed Session concerning a Conference with County Executive Officer-Real Property Negotiator(s) pursuant to Section 54956.8 as follows:
Property: C Street (vacant lot)
Property: 19th Street property
Negotiating Party: AGIS

CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9: Two Case(s)
THE BOARD RECESSED INTO CLOSED SESSION AT 9:00 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT WITH THE CHAIRMAN ADVISING DIRECTION WAS GIVEN TO STAFF

10:00 A. M.

PLEDGE OF ALLEGIANCE

PRESENTATION OF SERVICE PIN AWARDS

40 YEARS OF SERVICE

Susan Huntoon, Human Services Agency

30 YEARS OF SERVICE

Charleen Renteria, Library

Anita Rusticus, Recorder

25 YEARS OF SERVICE

George Ybarra, Mental Health

PRESENTATION OF RETIREMENT PLAQUES

Renee Jacobs, Fire

Dennis Myers, Counsel

RECOGNITION – Lucile Edmonson

RECEPTION IS HELD IN ROOM 310

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)

Don Bergman representing McLane Pacific Bike Classic

UC MERCED PROJECT - LIAISON REPORT

RECEIVED REPORT FROM UC LIAISON KATHLEEN CROOKHAM

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Fire/OES - \$84,389

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items # 1 - 10)

APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

REPORTS/BOARD DIRECTION

County Executive Officer, County Counsel, County Auditor, Board of Supervisors Members

ADJOURN AS BOARD OF SUPERVISORS TO 1:30 P.M.

10:30 A. M.

CONVENE AS BOARD OF DIRECTORS OF IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY (IHSS)
SEE SEPARATE AGENDA

ADJOURN AS THE BOARD OF DIRECTORS OF IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY (IHSS)

LUNCH BREAK

1:30 P.M.

PLANNING - CONTINUED PUBLIC HEARING (Continued from January 14, 2003)

To consider an appeal of the Planning Commission denial of Zone Variance Application No. 02021 and Minor Subdivision Application No. 02037 submitted by Terrence Hoffman - Application is to vary from the minimum 20 acre parcel size in the A-1 (General Agricultural) zone and subdivide a 33 acre parcel into two parcels: Parcel 1=3.1 acres and Parcel 2=29.9 acres on property located on the east side of Merced Avenue and 1720 feet north of Bradbury Road in the Delhi area

REVIEW BOARD ORDER – SEE PAGE 8

PLANNING - CONTINUED PUBLIC HEARING (Continued from February 4, 2003)

To consider an appeal of the Planning Commission denial of Zone Variance Application No. 02029 and Minor Subdivision Application No. 02054 submitted by David Souza – Application is to vary from the minimum parcel size (20 acres) in the A-1 (General Agricultural) zone by 15.5 acres, to divide a 36 acre parcel into two parcels Parcel No. 1=4.33 acres and Parcel 2=31.65 acres on property located on the southeast corner of Westside Boulevard and Weir Avenue in the Livingston area

REVIEW BOARD ORDER – SEE PAGE 9

PLANNING - PUBLIC HEARING

To consider an Appeal of the Planning Commission denial of Zone Variance Application No. 02030 and Minor Subdivision Application No. 02058 submitted by Jerry Ruiz. Said Application is to vary from the minimum parcel size (20 acres) in the A-1 (General Agricultural) Zone by 10.65 acres, to divide an 18.62 acre parcel into two parcels: Parcel 1=9.35 acres and Parcel 2=9.35 acres on property located on the southwest corner of Eucalyptus Avenue and Reynolds Avenue in the Dos Palos area

REVIEW BOARD ORDER – SEE PAGE 9 AND 10

CONSENT CALENDAR (Items # 1- 10)

APPROVED AS RECOMMENDED AYES: ALL

Budget Transfers

1. Approve Budget Transfers submitted by Public Defender-\$50,710; Sheriff-0-, District Attorney-\$15,000 and \$70,726 and Treasury-\$14,400 as recommended by Executive Office.

Claims for Damages

2. Act on Claims for Damages submitted by Liza Zaragoza, Carlow Peralez and Linda and Alfred Lujian as recommended by Risk Management.

Child Support Services

3. Approve and authorize Chairman to sign Amendment to Contract No. 2000249 with California Dept. of Child Support Services for Annual Automation Cooperative Agreement.

Human Services Agency/Area Agency on Aging

4. Approve and authorize Chairman to sign Amendment to Contract No. 1033 with Community Action Agency to increase funds for Title III/VII Grant for Home-Delivered Meals Program.
5. Approve and authorize Chairman to sign Amendment to Contract No. 1034 with Community Action Agency to modify funding increasing the funds for Title III/VII Grant for Congregate Meals Program.
6. Approve and authorize Chairman to sign Amendment to Contract No. 8556 with County Counsel for provision of Senior Legal Services.

Board Recognition

7. Proclaim March 9 through March 15, 2003 as "Portuguese Immigration Week" in Merced County.
8. Authorize Certificate of Recognition to Paul Crookham in recognition of his Golden Veterans Award from the California Masonic Lodge and the Livingston Masonic Lodge for 50 Years of Service to the Masonry.
9. Authorize Certificate of Recognition to McLane Pacific as 2003 Large Business of the Year; Merced Honda as 2003 Midsize Business of the Year and Rucker Construction Company as 2003 Small Business of the Year as recognized by the City of Merced Economic Development Department.
10. Authorize Certificate of Recognition to Tom and Leticia Miller in recognition of 11 years of dedicated service to the Merced Rescue Mission.

REGULAR CALENDAR

BOARD ACTION

SHERIFF

11. Contract with Mathis Polygraph for Polygraph Services of new law enforcement personnel.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003044 AYES: 1, 2, 3

NOT PRESENT: 4, 5

12. Acceptance of Free Equipment from the Office of the National Drug Control Policy Counterdrug Technology Assessment Center-Department of the Army and authorize out-of-state travel for approximately one staff member for training, if necessary, prior to the issuance of the equipment.

APPROVED RECOMMENDATION AYES: 1, 2, 3 NOT PRESENT: 4, 5

13. Adopt Resolution for Bench Warrant Assessment Fees pursuant to Section 853.7a of the California State Penal Code.

ADOPTED RESOLUTION NO. 2003- 44 AYES: 1, 2, 3 NOT PRESENT: 4, 5

HUMAN SERVICES AGENCY

14. Amendment to Contract No. 5868 with Calif. Dept. of Aging for Title III/VI Funds for increase of funds for the Multiple Services to the senior citizens and approve the necessary budget transfers-\$41,766 (A-01). (4/5 Vote Required)

APPROVED RECOMMENDATION AYES: 1, 2, 3, 5 NOT PRESENT: 4

15. Amendment to Contract No. 99157 with Calif. Dept. of Aging for Community-Based Services programs increasing the funding and approve necessary budget transfers-\$14,187 (A-07). (4/5 Vote Required)

APPROVED RECOMMENDATION AYES: 1, 2, 3, 5 NOT PRESENT: 4

DISTRICT ATTORNEY

16. Contract for Investigative Services with the Housing Authority of the County of Merced.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003042 AYES: 1, 2, 3
NOT PRESENT: 4, 5**

DEPT. OF WORKFORCE INVESTMENT

17. Cancel Contract No. 9859 with Merced College for operation of the Westside Plato Lab.

APPROVED RECOMMENDATION AYES: 1, 2, 3 NOT PRESENT: 4, 5

18. Appoint Ana Andrade to the Youth Council.

APPROVED RECOMMENDATION AYES: 1, 2, 3 NOT PRESENT: 4, 5

PLANNING

19. Authorize approval for Planning Staff to prepare Contract with Delhi County Water District for a water and sewer infrastructure study utilizing \$35,000 from Miscellaneous Program Income Trust Fund to pay for the Study, direct staff to return to the Board with the Contract and approve necessary budget transfer-\$35,000.

APPROVED RECOMMENDATION AYES: ALL

BOARD OF SUPERVISORS

20. Appoint the Merced County Chamber of Commerce as the official representative of Merced County to be responsible for the County's exhibit at the Calif. State Fair for 2003 and authorize the Chairman to sign the Counties Exhibit Entry Form.

APPROVED RECOMMENDATION AYES: 1, 2, 3 NOT PRESENT: 4, 5

EXECUTIVE OFFICE

21. Biennial Review of Merced County's Conflict of Interest Code and approve updated Appendix A to the Merced County's Conflict of Interest Code-update of designated filers by

department.

APPROVED RECOMMENDATION AYES: 1, 2, 3, 5 NOT PRESENT: 4

BUSINESS-ECONOMIC OPPORTUNITIES

22. Amendment to Contract No. 2002190 with Bass Telecom, Inc. for extension to May 8, 2003 and authorize increase in the contract value by \$32,719 in order to complete additional and required scope of work tasks for existing specific aerial telephone cabling and building telecommunications equipment at Castle (Buildings 152 and 1015).

APPROVED RECOMMENDATION AYES: ALL

BOARD APPOINTMENTS

23. Deferred Compensation Committee

APPOINTED M. STEPHEN JONES TO SERVE AS A MEMBER OF THE DEFERRED COMPENSATION STANDING COMMITTEE UNTIL JANUARY 1, 2004.

24. Emergency Medical Care Committee

REAPPOINTED PAT KERRIGAN, REPRESENTING FIRE, AND KEVIN SMITH, REPRESENTING FIRE-OES, TO SERVE AS MEMBERS OF THE EMERGENCY MEDICAL CARE COMMITTEE UNTIL JUNE 30, 2006.

25. RCRC - Alternate Appointment

APPOINTED MIKE NELSON AS PRIMARY ALTERNATE WITH SUPERVISORS CORTEZ KEENE, CROOKHAM AND KELSEY AS ALTERNATES ON THE REGIONAL COUNCIL OF RURAL COUNTIES (RCRC) FOR 2003.

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

26. Health re: Food Facility Ratings/Inspection Results on the Internet.
27. Fire re: Merced County Fire Department Accomplishments for the Year 2002.
28. Dept. of Workforce Investment re: Resignation of Leo Lamb from the Workforce Investment Board.
29. Dept. of Workforce Investment re: Resignation of David Riordan from Workforce Investment Board.
30. Business-Economic Opportunities re: Central Valley Cable TV, LLC Notification of price increase effective April, 2003.
31. Mono County Board of Supervisors re: Yosemite Area Regional Transportation System Joint Powers Agency (YARTS) identification of provision of transit service to Yosemite National Park with "clean air" transit, as a priority project.
32. Regional Council of Rural Counties re: 2002 State Legislative Summary highlighting bills important to rural counties. (On file with Clerk)
33. Judicial Council of California re: Draft Probation Services Task Force Final Report available for comment on March 14, 2003.
34. Calif. Regional Water Quality Control Board re: Notice of California Environmental Quality Act (CEQA) Scoping Meeting and Public Workshop on the Development of a Basin

Plan Amendment to Control the Discharge of Diazinon and Orchard Runoff and Establish a Total Maximum Daily Load for Diazinon in the Sacramento and Feather Rivers.

35. State Water Resources Control Board re: Notice of Petition for temporary change involving the transfer of up to 200,000 acre feet of water by Yuba County Water Agency under Permit 15026 (Application 5632).
36. U.S. Dept. of the Interior re: Request for participation in planning and implementing a 2003 San Joaquin River Cleanup Event.

ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF HUBERT MCCURDY AND RICHARD ROGERS UNTIL TUESDAY, MARCH 25, 2003 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – MARCH 18, 2003

1:30 P. M. SCHEDULED ITEM

2003-03-18 PLANNING – CONTINUED PUBLIC HEARING

The time and date previously set for a Public Hearing to consider an Appeal of the Planning Commission denial of Zone Variance Application No. 02021 and Minor Subdivision Application No. 02037 submitted by Terrence Hoffman. Said application is to vary from the minimum 20 acre parcel size in the A-1 (General Agricultural) zone and subdivide a 33 acre parcel into two parcels: Parcel 1 = 3.1 acres, Parcel 2 = 29.9 acres on property located on the east side of Merced Avenue and 1720 feet north of Bradbury Road in the Delhi area.

Planning Director Bill Nicholson reviews the Staff Report advising this matter was continued from the Board Meeting of January 14, 2003 and states the Planning Commission recommends denial.

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

Mike Smith, Central California Permit Service, speaks on behalf of Mr. and Mrs. Hoffman. Mr. Smith states a new parcel is not being created, already existing as far as land use is concerned and the land has never been used for farming. The Hoffman's wish to retain their original home site and give the rest of the land to their children.

Beverly Hoffman, states she and her husband have lived on the property for 40 years. The land has never been farmed but they have horses on the property. She reviews the process and fees they have paid to get this far and reviews the current property map.

Ed Pattison, Merced County Farm Bureau Executive Director, reiterates the importance of protecting A-1 zoning and reviews problems of breaking up land through variances stating this deviates from the General Plan. He states breaking up this land will have a negative impact on the neighboring lands and will set precedence.

Lynn Roslyn, friend to the Hoffman family, states variances are for special circumstances and this piece of land has never been farmed and this project needs to be approved on its own merit and this is what a variance is all about.

Following a lengthy discussion, Supervisor Kelsey moves, seconded by Supervisor Nelson, to deny the appeal and uphold the determination of the Planning Commission denying the Zone Variance Application No. 02021 and Minor Subdivision Application No. 02037.

Following further discussion, the Chairman calls a Vote on the Motion.

Supervisor Cortez Keene votes "no". Motion Carries.

Ayes: Crookham, Nelson, Kelsey, O'Banion

Noes: Cortez Keene

1:30 P. M. SCHEDULED ITEM

2003-03-18 PLANNING - PUBLIC HEARING (Continued from February 4, 2003)

The time and date previously set for a Public Hearing to consider an Appeal of the Planning Commission denial of Zone Variance Application No. 02029 and Minor Subdivision Application No. 02054 submitted by David Souza. Said application is to vary from the minimum size (20 acres) in the A-1 (General Agricultural) zone by 15.5 acres, to divide a 36 acre parcel into two parcels: Parcel 1 = 4.33 acres, Parcel 2 = 31.65 acres on property located on the southeast corner of Westside Boulevard and Weir Avenue in the Livingston area.

Planning Director Bill Nicholson reviews the Staff Report advising this matter was continued from the Board Meeting of February 4, 2003 and states the Planning Commission recommends denial.

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

Janet Souza states the land is currently farmed and young trees are on the property.

A lengthy discussion is had on the property use and the physical surroundings.

Following a lengthy discussion, Supervisor Cortez Keene moves, seconded by Supervisor O'Banion, to uphold the appeal and overturn the determination of the Planning Commission and approve Zone Variance Application No. 02029 and Minor Subdivision Application No. 02054 finding variances for the two lots can be made; exempts the Zone Variance and Minor Subdivision Applications from CEQA and approves the Applications based on Findings and subject to the Conditions of Approval.

Supervisor O'Banion states the differences between the two applications heard today is the distinction between one part of the parcel, the concrete ditch is a division that puts it at a disadvantage and does not seem to be detrimental to agricultural.

Supervisors Nelson and Kelsey state they cannot make the findings.

Following further discussion, the Chairman calls a Vote on the Motion.

Supervisors Crookham, Nelson and Kelsey vote "no". Motion fails.

Ayes: Cortez Keene, O'Banion

Noes: Crookham, Nelson, Kelsey

1:30 P. M. SCHEDULED ITEM

2003-03-18 PLANNING - PUBLIC HEARING

The time and date previously set for a Public Hearing to consider an Appeal of the Planning Commission denial of Zone Variance Application No. 02030 and Minor Subdivision Application No. 02058 submitted by Jerry Ruiz. Said application is to vary from the minimum parcel size (20 acres) in the A-1 (General Agricultural) zone by 10.65 acres, to divide an 18.62 acre parcel into

two parcels: Parcel 1 = 9.35 acres, Parcel 2 = 9.35 acres on property located on the southwest corner of Eucalyptus Avenue and Reynolds Avenue in the Dos Palos area.

Planning Director Bill Nicholson reviews the Staff Report and states the Planning Commission recommends denial.

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

Mike Smith, Central California Permit Service, speaks on behalf of Mr. Jerry L. Ruiz. Mr. Smith explains there is a canal dividing the property, a permit has been issued for a new home to be built and the foundation has already been poured. This property is being farmed and will continue to be farmed. Mr. Smith also states to split the property will also help secure the property.

Jerry Ruiz reiterates there has been a permit issued for a home to be built, the plumbing and foundation is currently being done.

Supervisor O'Banion states he has looked at the property and there is a distinct division between two parcels.

Ed Pattison, Merced County Farm Bureau Executive Director, states he does not see this as a physical barrier of the land and feels that findings cannot be made. He reviews the current policies of the general plan, criteria and the potential problems.

Following discussion, Supervisor O'Banion moves, seconded by Supervisor Cortez Keene, to uphold the appeal and overturn the determination of the Planning Commission and approve Zone Variance Application No. 02030 and Minor Subdivision Application No. 02058 finding a variance can be made for the two lots; exempts the Zone Variance and Minor Subdivision Applications from CEQA and approves the Applications based on Findings and subject to the conditions of approval.

Following further discussion, the Chairman calls a Vote on the Motion.

Supervisors Crookham, Cortez Keene, Nelson and Kelsey vote "no". Motion fails.

Ayes: O'Banion

Noes: Crookham, Cortez Keene, Nelson, Kelsey



SUMMARY ACTION MINUTES

MERCED COUNTY IN-HOME SUPPORTIVE SERVICES (IHSS) PUBLIC AUTHORITY

**Regular Meeting
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ADMINISTRATION BUILDING
2222 "M" STREET
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MERCED, CALIFORNIA 95340
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10:30 A. M.

PUBLIC AUTHORITY ACTION

IN-HOME SUPPORTIVE SERVICES (IHSS) PUBLIC AUTHORITY

Certify the Election recognizing United Domestic Workers of America (UDW) as the exclusive bargaining representative for Merced County In-Home Supportive Services (IHSS) providers

APPROVED RECOMMENDATION AYES: ALL