

# SUMMARY ACTION MINUTES

## BOARD OF SUPERVISORS

### Regular Meeting

**TUESDAY, MARCH 16, 2004**

Closed Session – 8:30 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  
MICHAEL G. NELSON.....DISTRICT 3  
CHAIR DEIDRE F. KELSEY.....DISTRICT 4  
JERRY O'BANION.....DISTRICT 5  
Lydia A. Beiswanger, Chief Clerk

DEMITRIOS O. TATUM  
COUNTY EXECUTIVE OFFICER

RUBEN E. CASTILLO  
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**

8:30 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 Real Property Negotiator(s) John Fowler-Business-Economic Opportunities Director pursuant to Section 54956.8 as follows:

Property/Reference:	Castle Airport
Property Description:	Various buildings
Negotiating Parties:	Merced Co. Economic Development Corp.

Property/Reference:	Castle Airport
Property Description:	Various buildings
Negotiating Parties:	Techland Testing

**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: One Case

**CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:** It is the intention of the Board to meet in Closed Session concerning Existing Litigation pursuant to Subdivision (a) of Section 54956.9:  
Evans v. County of Merced, Merced Case No. 147254  
Pearson v. County of Merced, Merced Case No. 146901

**THE BOARD RECESSED AT 8:30 A.M. TO MEET IN CLOSED SESSION WITH SUPERVISOR CROOKHAM NOT PRESENT AND RECONVENED AT 10:00 A.M. WITH SUPERVISOR CROOKHAM NOT PRESENT AND THE CHAIRMAN ADVISES THERE ARE NO REPORTABLE ITEMS**

**GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)**

10:00 A. M.

**PLEDGE OF ALLEGIANCE**

**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)

**The following speak: Kristi Rosenquist**

**BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES** (4/5 Vote Required) [District Attorney-\\$5,000 and Ag. Commissioner-\\$195,400](#)

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

**APPROVAL OF CONSENT AGENDA CALENDAR** (Items #1 - 15)

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

**REPORTS/BOARD DIRECTION**

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

10:30 A. M.

**PUBLIC WORKS - CONTINUED PUBLIC HEARING**

To consider possible adoption of a Mitigated Negative Declaration/Initial Study for a proposed County office building and expansion of the existing County Court Facility located in the City of Los Banos, CA

**REVIEW BOARD ORDER – SEE PAGE 7**

**PLANNING - Appeal of Planning Commission action approving Conditional Use Permit No. 99022**

**CONTINUED TO MARCH 30, 2004 AT 10:30 A.M. PER APPLICANT REQUEST**

**REVIEW BOARD ORDER – SEE PAGE 7**

**LUNCH BREAK**

**5:00 P. M. HEALTH**

Mercy Medical Center Merced Report and Action  
Report by Pacific Health Consulting Group  
Report by Catholic Healthcare West (CHW)

**REVIEW BOARD ORDER – SEE PAGE 9 AND 10**

**CONSENT CALENDAR (Items #1 - 15)**

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

**Public Works**

1. [Ratify Change Orders No. 1 and No. 3](#) and authorize Contract Amendments to Contract No. 2003116 with Commercial Construction Company for the Los Banos Restroom Remodel.
2. [Award and authorize the Chairman to sign Contract with](#) Bob Holl Sheet Metal, Inc. for Replacement of Computer Room HVAC at Building No. 1-Human Services Agency.  
**AUTHORIZED CONTRACT NO. 2004056**
3. [Award and authorize Chairman to sign Contract](#) with Custom Electric for additional Parking Lot Lighting Fixtures at Human Services Agency.  
**AUTHORIZED CONTRACT NO. 2004055**

**Ag. Commissioner**

4. [Approve and authorize Chairman to sign Renewal](#) Contract with California Crop Improvement Association for the Seed Certification Program.  
**AUTHORIZED CONTRACT NO. 2004057**

**Mental Health**

5. [Approve and authorize Chairman to sign Amendment](#) to Contract with Rite Aid Corporation for Pharmacy Services.  
**AUTHORIZED CONTRACT NO. 2004058**
6. [Approve and authorize Chairman to sign Amendment](#) to Contract with Los Banos Drug for Client Pharmacy Services-Los Banos.  
**AUTHORIZED CONTRACT NO. 2004059**

**Executive Office**

7. [PULLED](#)

**Claims for Damages**

8. [Act on Claim for Damages submitted by](#) Michael Sofranek as recommended by Risk Management.

#### Health

9. [Proclaim "National Public Health Week" for period](#) of April 5 through 11, 1004 in Merced County.

#### Assessor

10. [Approve and authorize Chairman to sign Contract](#) with State Dept. of Finance for continued participation in the State-County Property Tax Administration Program per AB 589 (formerly AB 719 and AB 1039).

**AUTHORIZED CONTRACT NO. 2004062**

#### County Clerk-Registrar of Voters

11. [Certify the Election Results for the Direct Primary](#) Election held on March 2, 2004.

#### Board Recognition

12. [Authorize Certificate of Recognition to John Heading](#) in honor of dedicated service as Chairman of MCEDCO Board of Directors.
13. [Authorize Certificate of Recognition to Merced Lao Family](#) Community, Inc. in recognition of closure of the Merced Hmong New Year Celebration 2004.
14. [Authorize Certificates of Recognition to Robert Carvalho,](#) Seth Brown and Rich Bohn in commendation of courage and excellence in fighting the Grand Prix Fires in San Bernardino County.
15. [Proclaim the week of March 7 - 13, 2004 as "Girl](#) Scout Week" and March 12, 2004 as "Girl Scout Day" and authorize Proclamation in celebration of the 92nd Anniversary of Girl Scouts.

## **REGULAR CALENDAR**

### **BOARD ACTION**

#### PUBLIC WORKS

16. [Contract with the City of Merced for](#) Bellevue Road Maintenance between G Street and Lake Road.

**AUTHORIZE CHAIRMAN TO SIGN CONTRACT NO. 2004054 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

17. [Resolution to implement local government control](#) measures in the Extreme Area Ozone Plan for the San Joaquin Valley.

**ADOPTED RESOLUTION NO. 2004-50 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

18. [Approve the Name Change to the Hilmar Community](#) Hall to the Hilmar Community Hall - Dan Ramos Center; approve the sign and lighting installation subject to a permit by the Building and Safety Division.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

COUNSEL

19. [Contract with Mason, Robbins, Gnass](#) and Browning for Professional/Special Services.  
**AUTHORIZE CHAIRMAN TO SIGN CONTRACT NO. 2004060 AYES: 1, 3, 4, 5  
NOT PRESENT: 2**

FIRE-OFFICE OF EMERGENCY SERVICES

20. [PULLED](#)
21. [Contract with Merced-Mariposa Chapter of the American](#) Red Cross to park the Disaster Response Trailer at the McKee Fire Station.  
**AUTHORIZE CHAIRMAN TO SIGN CONTRACT NO. 2004061 AYES: 1, 3, 4, 5  
NOT PRESENT: 2**
22. [Authorize purchase of two additional electronic defibrillator](#) units and two portable light tower/generator units with excess FY 03 Part I Homeland Security Grant Funds.  
**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

AUDITOR-CONTROLLER

23. [Approve a Loan not to exceed \\$29,000 to Hilmar](#) County Water District from the Special District Augmentation Loan Fund to be repaid within three years including interest.  
**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**
24. [Authorize payment to the State of California](#) Child Support penalty for Fiscal Year 2003-04 in the amount of \$632,872; approve adjusting the Cash Flow Loan to the Child Support Internal Service Fund to \$600,000 and to the Compliance Reserve to \$5,000 and approve the necessary budget transfer-\$82,872.  
**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

EXECUTIVE OFFICE

25. [Adopt amendment to the Human Resources](#) Rules and Regulations, Section 2.G.1.g., Workers Compensation, which requires an employee to use accrued leave balances for medical treatment during work hours once the claim has been determined permanent and stationary.  
**REVIEW BOARD ORDER – SEE PAGE 8**
26. [2004 Board of Supervisors Meeting Schedule –](#) Modified Calendar to change four existing day meetings of March 16, June 8, September 14 and December 14, 2004 to evening meetings to begin at 6:00 p.m. understanding due to publicly noticed hearings March 16, 2004 will include both day and evening schedule.  
**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

HUMAN SERVICES AGENCY

27. [Approve request for purchase of eight vehicles and necessary](#) budget transfer-\$116,800.  
**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

BOARD APPOINTMENTS

28. [2004 Board of Supervisors Committee and Board Assignments.](#)  
**REVIEW BOARD ORDER – SEE PAGE 8 AND 9**

**BOARD INFORMATION & POSSIBLE ACTION**

**ACCEPTED AND PLACED ON FILE AYES: 1, 3, 4, 5 NOT PRESENT: 2**

29. [Business-Economic Opportunities re:](#) Comcast notice of changes in programming and pricing effective April 2, 2004.
30. [Caltrans re: Merced River Bridge Replacement](#) Initial Study with Proposed Mitigated Negative Declaration, On State Route 59 in Merced County from 27.4 kilometers (17.0 miles) northeast of the City of Merced to the Merced River Crossing, March 2004. (On file with Clerk)
31. [Calif. Gas Gathering, Inc. re: Franchise Ordinance](#) No. 1650, Notification the applicant has not yet installed the pipeline and no annual fee is due.
32. [Merced College re: 2nd Annual Merced College Aggie](#) Classic Golf Tournament set for June 4, 2004.

**ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF SALVADOR CALISTRO, BRIAN AND KEVIN NANNINI UNTIL TUESDAY, MARCH 30, 2004 AT 10:00 A.M.**

**BOARD ORDERS – SUMMARY ACTION MINUTES – MARCH 16, 2004**

**10:30 A.M. SCHEDULED ITEM**

**2004-03-16 PUBLIC WORKS – PUBLIC HEARING**

The time and date previously set for the public hearing to consider the Mitigated Negative Declaration/Initial Study for a proposed County office building and expansion of the existing County Court Facility located in the City of Los Banos submitted by Public Works.

Public Works Director Paul Fillebrown reviews the Staff Report and recommendation before the Board.

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

The following speak in opposition of the project:

Leslie Vilalta (business owner located across the street from proposed project), Blanche Williams, Alejandro Ordaz, Mary Vilalta Brooks and Mrs. Ordaz.

Following a lengthy discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Cortez Keene, duly carried, the Board authorizes the Chairman to send a letter to the City of Los Banos requesting input on the consideration of the Mitigated Negative Declaration with the matter to come back to the Board at a later date with updated information.

Ayes: Kelsey, Cortez Keene, Nelson, O'Banion

Not Present: Crookham

**10:30 A.M. SCHEDULED ITEM**

**2004-03-16 PLANNING – CONTINUED HEARING**

The time and date previously set for the continued matter relative to the Appeal to the Planning Commission action on Conditional Use Permit No. 99022 – Vander Woude Dairy on property located north of Rahilly Road, west of State Route 59 in the Merced area.

The Clerk reads a letter into the record from the Planning Department dated March 12, 2004 stating the applicant has requested this matter be continued to the next regularly scheduled meeting of March 30, 2004 due to consultant conflicts.

Upon motion of Supervisor O'Banion, seconded by Supervisor Nelson, duly carried, the Board continues the matter relative to the Appeal to Conditional Use Permit No. 99022 until March 30, 2004 at 10:30 a.m.

Ayes: Kelsey, Cortez Keene, Nelson, O'Banion

Not Present: Crookham

**ACTION ITEM NO. 25**

**2004-03-16 EXECUTIVE OFFICE**

The Clerk states the matter before the Board is consideration of amendment to Human Resources Rules and Regulations, Section 2.G. Workers' Compensation based on a recent California State Supreme Court decision.

AFSCME representative Kristy Waskiewicz appears before the Board and questions effective date or retroactive date information.

County Executive Officer Demitrios Tatum states the Human Resources Rules and Regulations language clean up was a topic included in each of the current MOU's with bargaining units and there will be no retroactivity.

Following discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Nelson, duly carried, the Board adopts the amendment to the Human Resources Rules and Regulations, Section 2.G.1.g., Workers Compensation, which requires an employee to use accrued leave balances for medical treatment during work hours once the claim has been determined permanent and stationary.

Ayes: Kelsey, Cortez Keene, Nelson, O'Banion

Not Present: Crookham

**ACTION ITEM NO. 28**

**2004-03-16 BOARD APPOINTMENTS**

The Clerk advises the 2004 Board of Supervisors Board Committee and Assignments are before the Board for consideration.

Supervisor Cortez Keene requests to be removed as representative from NACo and CSAC and requests to be the representative for the High Speed Rail Committee and that an Alternate be appointed.

Supervisor Nelson expresses willingness to consider NACo and CSAC appointments.

Supervisor Cortez Keene adds Supervisor Nelson to serve as the Alternate representative for the High Speed Rail Committee.

Supervisor Nelson states he wishes to have Supervisor O'Banion remain as the Alternate on the Public Safety (Fire).

Supervisor O'Banion requests all four Board Members serve as the Alternate on the Regional Council of Rural Counties (RCRC).

Following discussion, the Board agrees to continue the discussion on the 2004 Board Committee and Assignments to the next Board Meeting.

Chairman Kelsey requests history information on the Fire Committee representatives.



Following further discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Nelson, duly carried, the Board reappoints Supervisor Cortez Keene to serve as the Board representative on the Local Agency Formation Commission (LAFCo) until May 7, 2007.

Present: Kelsey, Cortez Keene, Nelson, O'Banion

Not Present: Crookham

**5:00 P.M. SCHEDULED ITEM**

**2004-03-16 HEALTH – MERCY MEDICAL CENTER MERCED REPORT**

Chairman Kelsey calls the meeting to order at 5:00 p.m. stating this is a Continued Board Meeting to discuss and receive updated reports on Mercy Medical Center Merced.

Director of Public Health John Volanti reviews the Staff Report and advises Tim Reilly, Consultant from Pacific Health Consulting Group will provide the overview of the report on behalf of Pacific Health Consulting Group.

Pacific Health Consultant Tim Reilly reviews the Staff Report titled Review of Mercy Medical Center Merced Facility Use Agreements and Medical Assistance Program (MAP) in Merced County and Mercy Medical Center Merced (MMCM). Mr. Reilly states the key findings were as follows: the agreements are consistent with agreements in other counties across the state, MAP expenditures per patient are slightly above the statewide average, and there is a significant difference in cost of care provided out of the county.

Mercy Medical Center Merced President Tom Hennessy reviews the Staff Report titled Partnering for a Better Merced and briefly highlights on Status Reports for Emergency Services, Hospital Financial Performance, Staffing-Recruitment and Retention, CEO search update, New Hospital update, Opportunities-Inpatient Bed Capacity, Urgent Care Services, Surgical Services and Developing Partnerships.

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

Ray Blevins, retired Dentist, reviews his recent experience with his wife at the E.R. and the hours waited to see a doctor and receive medication. Mr. Blevins states his wife is now at Doctor's Hospital in Modesto and he felt the hospital care in Merced was poor.

Renee Davenport, employee at Mercy Gift Shop, inquires on the cost of the ambulance ride from MMCM to Mercy for those patients being transferred.

Supervisor Kelsey requests information be submitted to the Board from Mr. Hennessy for ambulance transfers.

Janice Munk, Atwater resident, provides written correspondence dated March 15, 2004 relative to Hospital Care in Merced County and asks the Board to look at health care for the people living in Merced County.

Joy Neal, Atwater resident, submits written correspondence titled 'Report about Unacceptable Health Care in Merced' and states she does not feel the statistics given for the hospital tell the full story of service.

Dr. Mark Hellner states he found out about the closure of Mercy through the newspaper and he thought everyone was assured by the Board of Directors that the hospital would not close. He submits an article entitled 'Uncharitable: How Nonprofit Hospital Chains Threaten Community Hospitals' for Board review.

Dr. George Nevatt, Emergency Room physician, briefly reviews Merced County history and goals and states physicians have been traded from one hospital organization to another and many are choosing to not work with the hospitals.

Dr. Salvador Sandoval, Golden Valley Health Center, requests the public be allowed to participate in the decision making stating medical care in Merced County is bad. He recommends a healthcare initiative be placed on the ballot for the public input.

Following a lengthy discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Nelson, duly carried, the Board accepts the report from Pacific Health Consulting Group regarding the Facility Use and Operating Agreements and Medical Assistance Program as presented, authorizes the Chairman to sign Amendment to Contract No. 2003192 with Pacific Health Consulting Group for the purpose of seeking alternative methods and sources of funding indigent health care services by increasing the term to December 31, 2004 and increasing the amount by \$50,000 for a total not to exceed \$87,600 subject to review by County Executive Officer, Auditor and Counsel.

Ayes: Kelsey, Cortez Keene, Nelson, O'Banion

Not Present: Crookham