



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, AUGUST 02, 2005
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

DEMITRIOS O. TATUM
COUNTY EXECUTIVE OFFICER

JOHN PEDROZO.....DISTRICT 1
KATHLEEN M. CROOKHAM.....DISTRICT 2
MICHAEL G. NELSON.....DISTRICT 3
DEIDRE F. KELSEY.....DISTRICT 4
CHAIRMAN JERRY O'BANION.....DISTRICT 5
Lydia A. Beiswanger, Chief Clerk

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 LEGAL COUNSEL - ANTICIPATED LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Subdivision (c) of Section 54956.9: Three Cases

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-Commerce, Aviation and Economic Development Director pursuant to Section 54956.8 as follows: Castle

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Subdivision (e) of Section 54957: PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Title: County Counsel

THE BOARD RECESSED AT 8:30 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED DIRECTION WAS GIVEN TO STAFF

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)

REVIEW BOARD ORDER – SEE PAGE 6

PRESENTATIONS - NACo Award, Digital Counties Survey, 2nd Place

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 16)

APPROVED AS RECOMMENDED AYES: ALL

10:30 A. M.

PLANNING - CONTINUED PUBLIC HEARING

An appeal of Planning Commission decision on Conditional Use Permit No. 2794 submitted by Joseph Amarant for a propane service and distribution facility due to failure to comply with previous conditions of approval on property located on the north side of Clover Avenue, approximately 600 feet east of Buhach Road in Atwater

REVIEW BOARD ORDER – SEE PAGES 10 AND 11

PLANNING - PUBLIC HEARING

An appeal of Planning Commission decision to approve Conditional Use Permit Application No. 02008 'Merced Community Golf and R.V. Park' filed by Merced County Farm Bureau and California Women for Agriculture. Said Application is to construct an 18-hole public golf course and a 171 unit RV Park on 277 acres of a 307 acre project site, with the remaining 30 (perimeter) acres being set aside as an agricultural buffer on property located on the north side of Highway 140, approximately one mile east of Arboleda Road and two miles west of Planada

REVIEW BOARD ORDER – SEE PAGES 6 THROUGH 10

REPORTS/BOARD DIRECTION

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

LUNCH BREAK

CONSENT CALENDAR (Items #1 -16)

APPROVED AS RECOMMENDED AYES: ALL

Health

1. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 2004008 with Teris, LLC dba MSE Environmental for Household Hazardous Waste Disposal.

ADOPTED RESOLUTION NO. 2005-141

District Attorney

2. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 2004218 with Calif. Dept. of Justice for Spousal Abuse Protection Program.

ADOPTED RESOLUTION NO. 2005-142

Sheriff

3. Approve and authorize Chairman to sign Renewal Contract No. 2004139 with City of Gustine for Law Enforcement/Dispatch Services.
4. Approve and authorize Chairman to sign Renewal Contract No. 2004232 with Merced County Jail Ministry for Ministry Services.

Mental Health

5. Approve and authorize Chairman to sign Renewal Contract No. 2002219 with Rebekah Children's Services for Group Home & Organizational Provider.
6. Approve and authorize Chairman to sign Renewal Contract No. 2004025 with Crestwood Behavioral Health, Inc. for services to mental health consumers.
7. Approve and authorize Chairman to sign Renewal Contract No. 2004203 with Merced Union High School District for mental health services at Livingston High School.

Executive Office

8. Approve and authorize Chairman to sign Renewal Contract No. 2004268 with Reliance Standard for Short Term/Long Term Disability (STD/LTD) for managers.
9. Approve and authorize Chairman to sign Renewal Contract No. 2003144 with The Standard Insurance Company for Group, Management and Voluntary Term Life Insurance.
10. Approve Travel Requests for Ag. Commission and District Attorney (2) as recommended by Executive Office.

Administrative Services

11. Approve and authorize Chairman to sign Amendment to Contract No. 200219 with Nelson Auctions for auctioneer services for the disposition of surplus property at Support Services Warehouse Facility and Castle Airport and Aviation Development Center.

Human Services Agency

12. Approve and authorize Chairman to sign Amendment to Contract No. 2001102 with Calif. Statewide Automated System Consortium IV for Welfare and Employment Services Automation Services.

13. Approve and authorize Chairman to sign Amendment to Contract No. 200286 with Provident Care for Chore, Personal Care, Respite, Care Assistant, Protective Supervision for the MSSP and the Linkages Programs.

14. Approve and authorize Chairman to sign the Contracts with the District Attorney for CalWORKs and Food Stamp Fraud Investigation and Prosecution.

CONTRACT NO. 2005256-CALWORKS AND FOOD STAMP FRAUD INVESTIGATION AND CONTRACT NO. 2005257-CALWORKS AND FOOD STAMP FRAUD PROSECUTION

Ag. Commission

15. Adopt Resolution authorizing Chairman to sign Amendment to Contract No. 2004260 with Calif. Dept. of Food and Agriculture for Egg Quality Inspection Services.

ADOPTED RESOLUTION NO. 2005-143

Probation

16. Approve and authorize Chairman to sign Renewal Contract No. 2004151 with Delhi Unified School District for placement of a deputy probation officer at Delhi High School.

REGULAR CALENDAR

BOARD ACTION

SHERIFF

17. Request to pursue further collaborative plans and actions with Human Services Agency and Public Works for development of a Merced County Law Enforcement Memorial and to accept public donations in support of the establishment of the Memorial and authorize said memorial to be located in the dry fountain area of the County Administration Building.

APPROVED AS RECOMMENDED AYES: ALL

PLANNING

18. Board direction on the 2005 Home Investment Partnership (HOME) Program Grant and authorization to release a Request for Proposal to qualified consultants to provide services for the implementation and grant administration.

REVIEW BOARD ORDER – SEE PAGE 11

PUBLIC WORKS

19. Contract with Winton Veterans of Foreign Wars Post 7792 for Winton Veterans of Foreign Wars Hall for repair services. (4/5 Vote Required)

APPROVED AS RECOMMENDED AYES: ALL

20. Authorize Mercy Foundation to have Fireworks at the Bi-Annual Gala Event at Lake Yosemite Scout Island on August 20, 2005.

APPROVED AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

21. Workforce Investment Board - Housing Task Force.

APPOINTED SUPERVISOR KELSEY TO SERVE AS THE BOARD

REPRESENTATIVE ON THE WORKFORCE INVESTMENT BOARD-HOUSING TASK FORCE AYES: ALL

22. UC Merced Medical Center Blue Ribbon Committee.

APPOINTED SUPERVISOR CROOKHAM TO SERVE AS THE BOARD REPRESENTATIVE ON THE UC MEDICAL CENTER BLUE RIBBON COMMITTEE AYES: ALL

BOARD APPOINTMENTS

23. May Day Fair Board and Merced Cemetery District.

REVIEW BOARD ORDER – SEES PAGES 11 AND 12

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

24. Sheriff re: Appointment of Sheriff Coroner Mark Pazin to the 911 State Advisory Board by Governor Schwarzenegger.
25. Sheriff re: Sheriff Mark Pazin selected as Chairman of the California State Sheriff's Association (CSSA) Court Security Committee.
26. Central Valley Regional Water Quality Control Board re: Notice of Meeting August 5, 2005.
27. State Wildlife Conservation Board re: Roberts Wetland Enhancement, Merced County.
28. U.S. Dept. of the Interior re: Fish and Wildlife Service - Draft Economic Analysis and Reopening of comment period for proposed critical habitat for central population of California Tiger Salamander.

ADJOURNED MEETING UNTIL TUESDAY, AUGUST 16, 2005 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – AUGUST 2, 2005

10:00 A.M. SCHEDULED ITEM **2005-08-02 PUBLIC OPPORTUNITY**

Fire Chief Gary Marshall provides the Board with an update on the local fires and the ammonia leak at the Dole plant in the County of Merced.

Present: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

10:30 A.M. SCHEDULED ITEM **2005-08-02 PLANNING – PUBLIC HEARING**

The time and date previously set for a public hearing to consider an Appeal to the Planning Commission decision to approve Conditional Use Permit Application No. 02008 'Merced Community Golf and R.V. Park' filed by Merced County Farm Bureau and California Women for Agriculture. Said Application is to construct an 18-hole public golf course and a 171 unit RV Park on 277 acres of a 307 acre project site, with the remaining 30 (perimeter) acres being set aside as an agricultural buffer on property located on the north side of Highway 140, approximately one mile east of Arboleda Road and two miles west of Planada.

Planning Director William Nicholson reviews the Staff Report and Planning Commission recommendation.

Planner James Holland reviews a power point presentation and Mr. Borchard appears before the Board as the Planning Consultant that prepared the EIR for the project.

The Chairman states the Board has received phone calls for and against the project. The Board also received the following letters which will be a part of the record: Donald Reineki dated August 1, 2005, California Women for Agriculture dated May 27, 2005 and the Merced County Farm Bureau dated May 20, 2005.

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

The following appear:

Ron Ewing, Applicant for the Community Golf Course, speaks in support.

Ron Porter, previous manager of Merced Hills Golf Course speaks in support.

Jean Okuye submits and reads letters into record from Mary Furey and herself relative to Leap Frog Development and urban sprawl.

Melvin Pruitt, resident next to the subject property, speaks in support.

Rob Thompson, educator and coach for 35 years speaks in support.

Jill Macha, educator on behalf of Alternative Education in Merced County speaks in support.

Ray Blevins speaks in support.

Paul Wenger, 2nd Vice President of Merced County Farm Bureau and walnut and almond grower in Modesto representing the Farm Bureau and the Farm Bureau Federation, speaks in opposition.

Lorraine Bocks, Le Grand farmer and member of the Farm Bureau, speaks in opposition.

Jim McVey, former President of Merced Hills Golf Course, speaks in support.

Cindy Lashbrook, representing the local chapter of Community Alliance of Family Farmers (CAFF), reads and submits a letter from CAFF in opposition.

Les McCabe, Chairman of the Merced County Farm Bureau Land Use Committee, representing the Board of Directors, speaks in opposition.

David Corser, representing the Planada Association, submits a letter and documents referenced in the letter, and speaks in opposition.

Don Bergman, representing the Greater Merced Chamber of Commerce and Visitors Center, speaks in support.

Eric Bocks speaks relative to housing in the area.

Katie Favier, President of Merced Chapter-California Women for Agriculture, reads a letter from their Executive Board in opposition.

Rod Herlitz, resident of Merced and golfer, speaks in favor.

Phil Favier, President of the Merced County Farm Bureau, speaks in opposition.

Tom Roduner submits a letter and speaks in opposition.

Louie Bandoni, local farmer, speaks in opposition.

The Board recesses at 12 noon and returns at 1:00 p.m. with all members present.

The Chairman advises the Board received material from Rochell Koch.

The following appear:

Cody Jacobsen of Le Grand and FFA Member submits a letter and speaks in opposition.

Alex Martinez, FFA Member, speaks in opposition.

Daniel Fishman of Le Grand and FFA Member speaks in opposition.

Michael Klieber, FFA Member, speaks in opposition.

Jessie Atwalt, resident of the area and farmer, reads a letter of support.

Lydia Miller, representing the San Joaquin Raptor and Wildlife Rescue Center, Steve Burke-Protect Our Water, Bryant Owens and David Corser, speaks in opposition and submits comments and references e-mailed documents sent to the Board earlier and asks they be considered part of the record.

The Chairman responds stating documents were received and will be part of the record.

Attorney Bill Gnass, representing the property owner, speaks in support addressing some of the concerns surrounding the project.

Diana Westmoreland-Pedrozo, Executive Director of the Merced County Farm Bureau, reviews a power point presentation and speaks in opposition.

Arthur Work speaks in favor.

Ralph Temple, Past President of Northern California Golf Association and President of California Golf Association, speaks in support.

Julius Pekar, representing the Merced County Chamber, speaks in support.

Kevin Thomas, speaking on behalf of himself, his family's farming interest, and John Myers' Flying "M" Ranch, speaks in support.

The Chairman states the public hearing is closed.

Supervisor Kelsey states that the County needs a golf course, but has a number of concerns. One, golf courses in the County are being converted to housing. An example is the Atwater course, and another is a course in Hilmar. It was not the original intent to approve these golf courses for housing. Second, there should be mitigation loss of prime ag land. Planada was required to mitigate for loss of ag land. The UC was also required to mitigate for Ag. Loss, as was Stanislaus County to mitigate for Ag. Loss. Supervisor Kelsey also concerned with the location of the project because of the prime ag land but recognizes the project is a good project. She states that people in the community are concerned about leap-frog development and that this project is not consistent with the General Plan. While it is an old General Plan, she agrees that this project is consistent with the current General Plan. Supervisor Kelsey states that there is not much prime ground in Merced County as compared with other counties. This lack of prime ag land results in there being few places for putting projects. She is also concerned with unrecognized cumulative impacts, such as the conversion to housing. Fox Hills is an example of a golf course now having houses placed around it. The County should consider farming as the primary use for ag land. She further states she does not feel there are assurances that at some point housing will not be a part of the project. An example is Merced Golf Course, which was taken over by UC for the campus. That was not foreseen, and things can change over time. She advises the project is consistent with the General Plan but the General Plan is 20 years old and the Plan itself is inconsistent and has ambiguities. This project needs to provide a great public good in order to justify overriding considerations.

Supervisor Nelson agrees the General Plan is out-of-date, however, the project is consistent with the General Plan. He questions the small size of the buffer in comparison to other buffers in the County, that the buffer is not permanent and there is no guarantee that the buffer will remain in place.

Planning Director Bill Nicholson advises the buffer does vary in width with the average width of 160 feet. He states the buffer is part of the project description but it is not a permanent conservation easement. The General Plan does recognize the concept of buffering, but not how much buffer does a golf course require. The General Plan does not have a standard for golf course buffers. The golf course could become the buffer between the ag. land and any housing development.

Supervisor Nelson states concern that the Farm Bureau has a view of the project, but there are a wide variety of views. In fact, one farmer said he supports the golf course. But Supervisor Nelson has a concern that houses will be built in the area some time in the future and there are no assurances. He also questions if the buffer could be larger or if it could be a true buffer with a conservation easement. He also questions whether a larger and more permanent buffer should be sent back to the Planning Commission.

Mr. Nicholson states if the Board is going to require a conservation easement, it could be handled by asking the applicant if he is amenable to that condition. However, if the Board wishes to change the boundary or alter the golf course, the matter would have to be referred back to the Planning Commission.

Supervisor Crookham states her concern is how busy Highway 140 is and there is not a shoulder. She is also concerned with homes being built in the area or the possibility of the golf course being converted to housing some time in the future and asks if the Board could approve the

project with the caveat that the golf course could not be converted to housing but would have to convert back to ag. land.

Supervisor O'Banion states that the proposed project involves a Conditional Use Permit for a golf course only, the approved golf course use could not be changed without further action on the permit, and a housing project would require Board approval.

Mr. Nicholson advises the project land can have up to eight houses and the golf course project could not automatically convert to houses without a change in County policy. For example, the housing in the Fox Hills golf course project required approval by the Board of Supervisors.

Supervisor Crookham asked whether the proposed project is compatible with the General Plan. Mr. Nicholson responded that it was compatible.

Supervisor Pedrozo states his desire for preservation of prime ag land and that the County needed to take a stance on ag. preservation. The County needed to preserve prime ag land and a lesser quality of land should be used for this project. Also, he stated that this project was growth inducing. He has studied the project, studied the proposed site and talked to numerous persons. He is not against golf, but this project needs an alternative site.

Supervisor O'Banion states the Planning Commission's decision was unanimous. The proposal is for a public golf course and is giving back to the community a golf course that was taken away with the coming of UC Merced. There is no discrepancy or inconsistency in the General Plan. The County has started collecting funds to bring the General Plan up to date but in the current General Plan, golf courses are approved in A-1 zones.

Supervisor Nelson states the project needs more review. He again questions the buffer zone. There is an upcoming joint meeting of the Planning Commission and Board of Supervisors where preservation of ag land will be discussed. Perhaps this project can await the outcome of those discussions.

Supervisor Crookham asks the County Executive Officer about the status of updating the General Plan. Mr. Tatum responded that additional funding will be sought at the August 30th budget hearings and, if approved, will provide funding to begin work on the update.

Supervisor Crookham asks Planning Director Nicholson about Williamson Act preserves. Mr. Nicholson draws a distinction between lands in the Williamson Act preserve and those lands that are under Williamson Act contract that places enforceable restrictions on the use of contracted land. The land for the proposed project is not under Williamson Act contract.

Supervisor O'Banion asks Mr. Nicholson whether the application is inconsistent with the General Plan. Mr. Nicholson responds "no".

Supervisor Kelsey states that the subsequent housing in the Fox Hills golf course project is the kind of cumulative impact she is concerned about.

Supervisor O'Banion states that the Merced Hills golf course had no houses.

Supervisor Pedrozo moves, seconded by Supervisor Kelsey, the Board uphold the Appeal filed by the Merced County Farm Bureau and California Women for Agriculture and deny Conditional Use Permit Application No. 02008 "Merced Community Golf and R.V. Park".

Supervisor O'Banion encourages Board Members to deny the Appeal.

Supervisor Kelsey states there are no guarantees to applicants when they ask the Board for approval of their project. Board Members must weigh the respective values under the current General Plan. The pendulum is swinging towards development. Mitigation of loss of ag land has been carried out in some communities. The UC mitigated for loss of ag land. Stanislaus County was required to mitigate for a hospital in that county. There were enormous benefits for those projects. The proposed golf course project is a good project, with a logical place. Supervisor Kelsey then lists her three concerns: (1) there is not a great public benefit; (2) there are unrecognized cumulative impacts; and, (3) mitigation for loss of prime ag land is needed.

Supervisor Nelson asks whether the applicant wants to adjust the buffer size.

Applicant Ron Ewing responds that he is not the land owner so he cannot commit to a buffer adjustment. There are no other responses to Supervisor Nelson's question.

Chairman O'Banion asks for a vote on the Motion.

Supervisors Crookham and O'Banion vote "no". Motion carries.

Ayes: Pedrozo, Nelson, Kelsey

Noes: Crookham, O'Banion

10:30 A.M. SCHEDULED ITEM
2005-08-02 PLANNING – CONTINUED PUBLIC HEARING

The time and date previously set for a continued public hearing to consider an Appeal of Planning Commission Action Revoking Conditional Use Permit No. 2794 submitted by Joseph Amarant for a propane service and distribution facility due to failure to comply with previous conditions of approval on property located on the north side of Clover Avenue, approximately 600 feet east of Buhach Road in Atwater submitted by Planning.

Planning Director Bill Nicholson provides an updated status report and background information on the continued public hearing.

Environmental Health Director Jeff Palsgaard reviews and distributes a Letter dated August 2, 2005 and photos regarding the status of the cleanup of the property as requested.

The Chairman asks if there is anyone present wishing to speak.

Helen Amarant speaks to the Board on the property clean up and asks the Board to allow another extension of time to complete the cleanup and to allow them to continue to serve their customers.

Mr. Zambelli, owner of Buhach Road property, states there has been progress on the cleanup and supports the request to allow additional time for the Amarant's.

The Chairman closes the public hearing.

Supervisor Nelson states he visited the property with Mr. Palsgaard and noticed cleanup has taken place with still more to do and suggests the Amarant's obtain contractors services for completion.

Following discussion, Supervisor Nelson moves, seconded by Supervisor Pedrozo, the Board allow a Six-Month Extension to allow for the clean-up completion with the understanding Environmental Health will continue to monitor the progress and provide written reports to the Board.

Supervisor Crookham questions the work that has been completed and request for additional information on dates the work began.

Mrs. Amarant responds stating on July 29, 2005 other sources of help were contacted.

Following further discussion, the Chairman calls for a vote on the motion.

Supervisor Crookham votes "no". Motion carries.

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Noes: Crookham

ACTION ITEM NO. 18

2005-08-02 PLANNING AND COMMUNITY DEVELOPMENT

The Clerk announces the 2005 HOME Investment Partnerships Program Grant and Request for Proposal to qualified consultants to provide services for the implementation and grant administration is before the Board for consideration.

Upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board authorizes Staff to prepare and apply for the \$600,000 HOME Program Grant Application for First-Time Homebuyer Funds; authorizes Planning in conjunction with Administrative Services-Support Services to prepare and release a Request for Proposal (RFP) to qualifying consultants for implementation and administration of the 2005 HOME grant, and, if funded, select the most responsive provider to perform such services and negotiate a contract and return to the Board for final contract approval.

Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

ACTION ITEM NO. 23

2005-08-02 MAY DAY FAIR BOARD

Upon motion of Supervisor Crookham, seconded by Supervisor Pedrozo, duly carried, the Board appoints Nikki Patricio to serve as a Director of the May Day Fair Board, representing District Five, until July 1, 2008.

Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

ACTION ITEM NO. 23

2005-08-02 MERCED CEMETERY DISTRICT

Upon motion of Supervisor Crookham, seconded by Supervisor Pedrozo, duly carried, the Board appoints James Crookham to serve as a member of the Merced Cemetery District until July 1, 2006.

Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey