



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, AUGUST 16, 2005
Regular Meeting – 10:00 a.m.
Closed Session – 10:15 a.m.

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

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

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

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 8

PRESENTATIONS - HEALTH - Medi-Cal Managed Care

REVIEW BOARD ORDER – SEE PAGE 8

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 26)

APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:15 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-Commerce, Aviation and Economic Development Director pursuant to Section 54956.8 as follows: Castle

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: One Case

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 11:30 A.M. AND RECONVENED AT 1:30 P.M. TO MEET IN CLOSED SESSION AND RECONVENED AT 2:30 P.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED DIRECTION WAS GIVEN TO STAFF

10:30 A. M.

PLANNING - PUBLIC HEARING

To consider an Appeal of Planning Commission Denial of Minor Subdivision Application No. 05016 by William and Carolyn Ahlem. Said Application proposes to divide a 40 acre parcel into two 20 acre parcels located on the west side of Mitchell Road and northwest of the intersection of Mitchell Road and Williams Avenue in Hilmar

REVIEW BOARD ORDER – SEE PAGES 8 AND 9

PUBLIC WORKS - CONTINUED PUBLIC HEARING

To consider a proposal from Waste Management, Inc. to implement a Curbside Recycling Program for Unincorporated Urban Areas within County Solid Waste Franchise Areas 1 through 5 and consider proposed Ordinance which would establish Refuse Service fees to offset the costs of the program, adding Chapter 5.90 to the Merced County Code and Repealing Ordinance No. 1658

REVIEW BOARD ORDER – SEE PAGES 9 AND 10

REPORTS/BOARD DIRECTION

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

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 26)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Accept the Final Map for Hollywood Park Phase 3 Subdivision in the Franklin-Beachwood area.

District Attorney

2. Approve and authorize Chairman to sign Renewal Contract No. 2005189 with Richard S. Michaels, Attorney for Consulting and Legal Services for the investigation and prosecution of consumer protection cases.
3. Approve and authorize Chairman to sign Renewal Contract No. 2004181 with Governor's Office of Emergency Services for Vertical Prosecution Block Program.

ADOPTED RESOLUTION NO. 2005-144

Health

4. Approve and authorize Chairman to sign Renewal Contract No. 2004185 with Central Self Storage for Health Department Records and Equipment Storage.
5. Approve and authorize Chairman to sign Amendment to Contract No. 2004187 with American Institutes for Research for Feasibility Analyses and Action Plan Development to address the latest guidelines established by the Calif. Children and Families Commission for the Preschool for All Demonstration Grant process as recommended by First 5 Merced County.

Sheriff

6. Approve and authorize Chairman to sign Renewal Contract No. 2000166 with Mariposa County for special space services at the Coroner's Office.

Mental Health

7. Approve and authorize Chairman to sign Renewal Contract No. 2004064 with Fresno Care and Guidance for services provided to Mental Health Consumers.
8. Approve and authorize Chairman to sign Renewal Contract No. 200217 with State Dept. of Mental Health for Managed Care Specialty Services.
9. Approve and authorize Chairman to sign Renewal Contract No. 2004059 with Los Banos Drug for Pharmacy Services to Mental Health Clients.
10. Approve and authorize Chairman to sign Renewal Contract No. 2004231 with Merced County Office of Education for Educational Psychologist services.
11. Approve and authorize Chairman to sign Renewal Contract No. 2005027 with Challenged Family Resource Center for Family Advocacy Services to Families Facing Challenges.

Auditor-Controller

12. Approve and authorize Chairman to sign Renewal Contract No. 2005180 with Calif. Employment Development Department for confidential Collection Information to track down debtors.

Fire

13. Approve and authorize Chairman to sign Amendment to Contract No. 2004382 with U.S. Fish and Wildlife Service, San Luis and Merced National Wildlife Refugees to provide fire aid and coordination between jurisdictions.

Human Services Agency

14. Approve and authorize Chairman to sign Amendment to Contract No. 2004222 with Calif. Dept. of Aging for Area Plan Contract for the Title III, VI, IIIE and CBSP Programs.
15. Approve and authorize Chairman to sign Renewal Contract No. 2004142 with Airport Warehouse Rentals for Grogan Avenue storage space.

Treasurer/Tax Collector

16. Acceptance of the Quarterly Investment Report for the Quarter Ending June 30, 2005.

Human Resources

17. Approve and authorize Chairman to sign Renewal Contract No. 2005181 with TALX Corporation and County Personnel Administrator Association of California (CPAAC) for administration of Unemployment Compensation Insurance.
18. Approve and authorize Chairman to sign Amendment to Contract No. 2005182 with L.B. Hayhurst and Associates to review County-wide Management classifications.

Executive Office

19. Approve Travel Requests submitted by Human Services Agency (2), Mental Health, and Treasurer/Tax Collector as recommended by Executive Office.
20. Act on Claims for Damages received from Robert Daniels (2005-21), Roel Cerda (2005-26), Lydia Darling (2005-30), Dan Elvaz (2005-33), Esteban Salgado (2005-36) and George Jercich (2005-39) as recommended by Executive Office.

Board Recognition

21. Authorize Certificate of Recognition to Clearwire for Cable Cutting and the launching of the new Wireless Broadband Internet Service.
22. Authorize Certificates of Recognition to Riggs Ambulance, American Red Cross, Atwater Police and Fire Departments and Merced City and County Fire Departments for their assistance during the fire at the Sun Valley Center in Atwater on July 14, 2005.
23. Authorize Certificate of Recognition to Merced Community College District in recognition of the Groundbreaking of the new Merced College Los Banos Campus to serve the Westside Communities of Merced County.
24. Authorize Certificates of Recognition to Alyssa Villa, Courtney Creighton, Lindsey Lopez, Sandra Walle, Sara Peterson, Kelli Ryan, Ceasarina Shaw, and Kaitlynn Mendoza-Garcia in honor of their recognition by the International Dance Council for exemplary accomplishments.
25. Authorize Certificate of Recognition to Lao-Hmong Communities for bravery, sacrifice and contribution of Hmong, Lao, Lu Mien and other minority groups from Laos to the United States during the period of 1960 through 1975.

26. Authorize Certificate of Recognition to Alan Rasmussen for dedicated service to the Merced City School District and the many contributions to the community.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

27. Contract and Right of Entry with Saint George Society for improvements to the El Nido Recreation Building management and repairs.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005184 AYES: ALL

28. Approve Plans and Specifications for the construction of the Raised Pavement Markers (to be installed on 135 miles of County Roadway) on Various Roads throughout the County of Merced and direct Public Works to return to the Board with Bid Results and recommendation for Award.

APPROVED AS RECOMMENDED AYES: ALL

MENTAL HEALTH

29. Contract with The Center for Applied Local Research for development and implementation of the Evaluation Plan for the Dependency Drug Court Grant for FY 2005/2006.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005183 AYES: ALL

30. Contract with Otsuka America/Bristol Meyer Squibb for the 7% Rebate Program on Psychotropic Medication prescribed to clients.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005185 AYES: ALL

FIRE

31. Contract with CDF for Rural Community Fire Protection Program for the Volunteer Fire Assistance Program Grant Funds to purchase 160 New Generation Fire Shelters.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005186 AND ADOPTED RESOLUTION NO. 2005-145 AYES: ALL

TREASURER-TAX COLLECTOR

32. Authorize distribution of final excess proceeds from the Public Auction of Tax-Defaulted Property sold for failure to pay taxes on real property by the Auditor-Controller payable to the following Claimants: 078-211-022, Elwyn J. Leatherman, \$37,509.12 and 089-133-016, Eveyln Talbert, II, \$25,173.07, Gloria Tynes, \$6,293.47 and Global Discoveries, \$6,293.47.

APPROVED AS RECOMMENDED AYES: ALL

AUDITOR-CONTROLLER

33. Authorize Auditor-Controller to proceed with Electronic Recording Delivery System with the State Dept. of Justice understanding the MOU will come back to the Board for final recommendation.

APPROVED AS RECOMMENDED AYES: ALL

34. Review, approve and accept the Supplemental Law Enforcement Services Fund (SLESF) Report for the Year Ended June 30, 2005 together with a Five-Year History of the COP Funds for the District Attorney, Sheriff and Corrections Departments to be filed with the

State Controller and the Board of Corrections.

APPROVED AS RECOMMENDED AYES: ALL

HEALTH

35. Resolution granting the Merced County First 5 Commission authority to purchase property utilizing First 5 Merced County (Proposition 10) Trust Funds, delegating the Merced County First 5 Commission exclusive authority to manage and control said property understanding title of any property would be in the County's name and would remain so should the Commission cease to exist.

REVIEW BOARD ORDER – SEE PAGES 10 AND 11

EXECUTIVE OFFICE

36. Long Term Care Insurance (LTC) Voluntary Employee Benefit - Authorize employee payroll deductions with the CalPERS Long Term Care Program and amend Merced County's Flexcomp Flexible Benefits Plan to include Long Term Care Insurance subject to meeting the requirements of an IRS Section 125 Plan.

REVIEW BOARD ORDER – AMENDED – SEE PAGE 11

BOARD APPOINTMENTS

37. Lower San Joaquin Levee District.

APPOINTED PAUL HUNGER JR. TO SERVE AS A MEMBER OF THE LOWER SAN JOAQUIN LEVEE DISTRICT REPRESENTING MERCED COUNTY UNTIL JUNE 4, 2009 AYES: ALL

38. Housing Authority of the County of Merced.

APPOINTED FORREST ATKINS TO SERVE AS A MEMBER OF THE HOUSING AUTHORITY OF THE COUNTY OF MERCED FILLING THE UNEXPIRED TERM OF EARL WONG UNTIL FEBRUARY 18, 2008 AYES: ALL

39. Le Grand Municipal Advisory Council - District One.

NO ACTION TAKEN – PULLED FROM THE AGENDA

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

40. Los Banos Unified School District re: Community Facilities District No. 2 (Mitigation Agreement); Resolution of Intention. (On file with Clerk)
41. State Fish and Game Commission re: Agenda Meeting notice of August 17 and 18, 2005.
42. State Office of the Attorney General re: Report "Keeping the Promise: Victim Safety and Batterer Accountability" analyzes how well our state's criminal justice systems have carried out their responsibilities and offers recommendations for improvement. (On file with Clerk)
43. MCI re: Notice of Commission Meetings - August 15, 16 and 18, 2005, Public Participation Hearings on Verizon-MCI Merger.
44. State Water Resources Control Board re: Notice of Public Hearing - To determine whether or not to adopt cease and desist orders against the U.S. Bureau of Reclamation and Calif. Dept. of Water Resources - Sacramento River, San Joaquin River and Sacramento-San Joaquin Delta Channels San Joaquin County on October 24, 2005 in Sacramento.

45. State Governor's Office of Emergency Services re: U.S. Dept. of Agriculture granted a Secretarial disaster designation for the counties of Fresno, Kern, Madera, Merced and Tulare and the contiguous counties of Inyo, Kings, Los Angeles, Mariposa, Mono, Monterey, San Benito, San Bernardino, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tuolumne and Ventura due to agriculture losses caused by rain and hailstorms that occurred from April 28, 2005 and ending May 9, 2005.
46. State Wildlife Conservation Board re: Notice of Meeting on August 25, 2005, Sacramento. (On File with Clerk)
47. Dept. of Workforce Investment re: 2005/2006 WIA Subgrant Agreement R692484, Modification 1, with the State Employment Development Department.

**ADOPTED RESOLUTIONS IN MEMORY OF JOSEPH GAESTEL AND LOUIS TOSCANO
AND ADJOURNED MEETING UNTIL TUESDAY, AUGUST 30, 2005 AT 10:00 A.M.**

BOARD ORDERS – SUMMARY ACTION MINUTES – AUGUST 16, 2005

10:00 A.M. SCHEDULED ITEM

2005-08-16 PUBLIC OPPORTUNITY

Maria Torres-Rios appears and submits a letter from the Merced County Health Care Consortium supporting the Feasibility Study for Alternative Models for a Medi-Cal Managed Care System in Merced County, including the option of a County Organized Health System.

CEO of Castle Family Health Centers Ned Miller states he is confident staff's recommendation regarding the Medi-Cal Managed Care will be in the best interest of the County.

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

10:00 A.M. SCHEDULED ITEM

2005-08-16 PRESENTATION – HEALTH - MEDI-CAL MANAGED CARE

Public Health Director John Volanti reviews a power point presentation on the Medi-Cal Managed Care Expansion process occurring in the State and options available. Mr. Volanti reviews the proposed proposal stating Staff will come back when the Planning and Analysis process has been concluded and completed with final recommendations for Board approval.

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

10:30 A.M. SCHEDULED ITEM

2005-08-16 PLANNING - APPEAL – PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal of Planning Commission Denial of Minor Subdivision Application No. 05016 submitted by William and Carolyn Ahlem to propose to divide a 40 acre parcel into two 20-acre parcels located on the west side of Mitchell Road and northwest of the intersection of Mitchell Road and Williams Avenue in Hilmar.

Planner Jeff Wilson reviews the staff report and power point presentation for the subject property.

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

Horizon Consulting Representative Dennis Wilson, representing the applicants, reviews the Applicants' grounds for Appeal and addresses Finding No. 13, average parcel size in the area, stating there are more parcels with less land than this parcel but the last three parcels are larger and askew the average parcel size. He states if a larger radius were to be used, this project would meet the requirements. Mr. Wilson further advises the land will remain active agriculture.

Mr. Wilson states with the division of the parcels, two homes would be allowed and there are no plans to sell now but the land could be sold in the future.

The Chairman closes the public hearing.

Supervisor Kelsey states the land is in the Williamson Act which demonstrates commitment to agriculture. It is her understanding the application to divide the property is to enhance the family farming operation and is still part of a larger operation and will continue to provide service to agriculture.

Supervisor Crookham inquires about the radius and whether or not staff is consistent with all applications and states concern with dividing into smaller parcels.

Planning Director Bill Nicholson advises staff is consistent in that the Zoning Code provides guidelines for consideration and staff looks at parcels within a half-mile radius of each project site.

Following discussion, Supervisor Kelsey moves, seconded by Supervisor Pedrozo, the Board uphold the Appeal and approve the application, overturning the determination of the Planning Commission; approve Minor Subdivision Application No. 05016 and exempt the Application from CEQA based on Findings that the project is consistent with the General Plan and Zoning and subject to the following Conditions of Approval:

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Planning Commission approval date as required by the Subdivision Map Act and Merced County Subdivision Code.
2. A Right-to-Farm Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the subject property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operation.
3. The property owner(s) shall dedicate to the County of Merced, annotated on the parcel map, an additional 10-foot width of road right-of-way along the entire frontage of Mitchell Road.

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Noes: Crookham

10:30 A.M. SCHEDULED ITEM
2005-08-16 PUBLIC WORKS – CONTINUED PUBLIC HEARING

The time and date previously set for a continued public hearing to consider a proposal from Waste Management, Inc. to implement a Curbside Recycling Program for Unincorporated Urban Areas within County Solid Waste Franchise Areas 1 through 5 and consider proposed Ordinance which would establish Refuse Service fees to offset the costs of the program, adding Chapter 5.90 to the Merced County Code and Repealing Ordinance No. 1658.

Public Works Director Paul Fillebrown reviews the Staff Report and provides the background on proposal before the Board.

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

Carolyn Goings states there should be an opt-out provision for the landscaping container when a household can prove they have a landscaper that recycles and there should be a provision to take containers to the curb for seniors and the disabled.

Marvin Wallace states he is not against the proposal but is more interested in the economy and speaks on CRV costs.

The following speak in support:

Candace Adam-Medefind, representing Merced Recycling Coalition, (Letter submitted), Tom Grave, member of the local Integrated Waste Management Task Force, Lisa Kaiser-Grant, Ana Grant, Cindy Lashbrook, and Danielle Mumford .

The Chairman closes the public hearing.

Supervisor Crookham states concerns expressed today should be considered with the haulers.

Supervisor Pedrozo questions if there will be negotiations for senior discounts, whether everyone has to participate and cans being taken to the curb for disabled people.

Mr. Fillebrown states currently there are senior discounts but previously the Board indicated it would prefer a larger discount for seniors and this will have to be discussed with the hauler. He also states regarding participation, the County does not have mandatory trash collection and there is an option to opt out. He states the carriers currently will provide the service to help take containers to the curbs if requested to do so.

Supervisor Kelsey inquires about the option of opting to not have a green waste can.

Mr. Fillebrown responds stating if the home does not have landscaping or if it is demonstrated individuals compost all their green waste, they can opt out. He states the County has not opted out for individuals with gardeners.

Following discussion and upon motion of Supervisor Crookham, seconded by Supervisor Pedrozo, duly carried, the Board waives further reading of proposed ordinance, An Ordinance Adopting Refuse Service Fees and Charges for County Solid Waste Franchise Areas 1 through 5 and Adding the Curbside Recycling Program (Repeals Ordinance No. 1658 and Adds Chapter 5.90 to the Merced County Code) and adopts Ordinance No. 1759.

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

ACTION ITEM NO. 35

2005-08-16 HEALTH – First 5 Merced County

The Clerk announces the First 5 Merced County Authority to Purchase Property is before the Board for consideration as submitted by Health.

Public Health Director John Volanti reviews the Staff Report and advises no property has been purchased but the Commission is looking at property and options.

County Counsel Ruben Castillo states his concern has been reduced and advises there was concern that the Board not relinquish all of its control over County property and give exclusive authority to a County department because it may be problematic.

Following discussion, Mr. Volanti advises as part of the Commission's fiduciary responsibility, the property would be purchased by the Commission. He further states should the Commission become decommissioned for any reason, the property would remain property of the County.

Following discussion and upon motion of Supervisor Pedrozo, seconded by Supervisor Kelsey, duly carried, the Board accepts the recommendations of the First 5 Merced County Commission regarding the purchase of property utilizing First 5 Merced County (Proposition 10) Trust Funds; authorize the County to purchase said property for First 5 Merced County's sole use and purposes and delegates to the First 5 Merced County Commission exclusive authority to manage and control said property and adopts Resolution No. 2005-146.

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

ACTION ITEM NO. 36

2005-08-16 EXECUTIVE OFFICE

The Clerk announces the Long Term Care Insurance (LTC) Voluntary Employee Benefit Program is before the Board for consideration and states Recommendation 2 is to be omitted and deleted from consideration as submitted by the Executive Office.

County Executive Officer Dee Tatum states the Long-Term Care Program is a voluntary action and there will be no cost to the County.

Following discussion and upon motion of Supervisor Crookham, seconded by Supervisor Pedrozo, duly carried, the Board authorizes Employee Payroll Deductions with the CalPERS Long-Term Care Program.

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