



# SUMMARY ACTION MINUTES

## BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, OCTOBER 04, 2005

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

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

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 Existing Litigation Pursuant to Government Code Section 54956.9(a): San Joaquin Raptor Center, et al. v. County of Merced (Santa Fe Aggregates and Bettencourt), Superior Court Case No. 147510, consolidated with Legal and Safety Employer Research v. County of Merced, et al. (Santa Fe Aggregates and Bettencourt) Superior Court Case No. 147511

**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 Government Code Section 54956.9(b): Three Cases

**CLOSED SESSION:** It is the intention of the Board to meet in Closed Session pursuant to Subdivision (f) of Section 54957.6 concerning a Conference with County of Merced Staff Negotiators concerning negotiations with American Federation of State, County and Municipal Employees (AFSCME), Units 4, 5, 6 and 8; Independent Employees of Merced County (IEMC), Unit 3; Merced County Lawyers Association, Unit 7; Merced County Sheriff Employee Association (MCSEA), Unit 2; Merced County Law Enforcement Sergeants, Unit P; Deputy Sheriff Association, Unit 10 and Non-Safety Corrections, Unit 12

**THE BOARD RECESSED AT 9:00 A.M. WITH ALL MEMBERS PRESENT 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)

**The following speak: Candace Gregory introduces the new Madera/Mariposa/Merced Unit Chief Mikel Martin, Ron Ewing submits documents, C. J. Sterling and Tom Grave**

**BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES** (4/5 Vote Required) Ag. Commissioner-\$3,730; Health (SCEAP)-\$72,934, \$62,797; Sheriff-\$6,000 and Public Works-\$2,464 (#004) and \$270,500 (#009)

**APPROVED AS RECOMMENDED AYES: ALL**

**APPROVAL OF CONSENT AGENDA CALENDAR** (Items #1 - 29)

**APPROVED AS RECOMMENDED AYES: ALL**

10:30 A. M.

**PLANNING - PUBLIC HEARING**

To consider an Appeal to the Planning Commission decision to deny Minor Subdivision Application No. 05021 submitted by the Stillman Family Trust. Said application is to divide 157 acres into seven parcels: Parcel 1 through 6 being 20 acres in size and Parcel 7 being 36.8 acres on property located on the north side of Childs Avenue and 750 feet east of Burchell Avenue in Planada

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

## REPORTS/BOARD DIRECTION

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

## LUNCH BREAK

### CONSENT CALENDAR (Items #1 - 29)

**APPROVED AS RECOMMENDED AYES: ALL**

#### Public Works

1. Adopt Resolution designating the intersection of Tierra De Oro Court and Hinton Avenue as a Stop Intersection and authorize the installation of a Stop Sign on the Tierra De Oro court approach in Delhi.  
**ADOPTED RESOLUTION NO. 2005-165**
2. Adopt Resolution accepting Grant Deed from Florsheim Brothers for Storm Drainage purposes associated with Harmony Ranch Unit No. 4 in Delhi.  
**ADOPTED RESOLUTION NO. 2005-166**
3. Adopt Resolution for the Summary Vacation of Excess Right of Way along Jefferson Street in Le Grand.  
**ADOPTED RESOLUTION NO. 2005-167**
4. Approve and authorize Chairman to sign Amendment to Contract No. 2005063 with Brown Construction Company for New Court Building Change Order No. 1 to include Additive Alternate bids deducting \$746,608 in engineering in value engineering items.
5. Approve plans and specifications for Underground Storage Tanks Removal and new Aboveground Storage Tanks at the John Latoracca Correctional Facility and authorize Bid Opening with report to come back to the Board for contract award to the lowest responsive bidder if within the previously identified budget.
6. Approve plans and specifications for Merced County Fire Station at Highway 140 and Gurr Road and authorize Bid Opening with report back to the Board for contract award to the lowest responsive bidder if within the previously identified budget.
7. Authorize termination of Contract No. 2000118 with Golden Valley Engineering & Surveying, Inc. for surveying services associated with the Campus Parkway Project.
8. Approve and authorize Chairman to sign Amendment to Contract No. 2005007 with Mark Thomas and Company for surveying services associated with the Campus Parkway Project.

#### Commerce, Aviation and Economic Development

9. Set public hearing for October 18, 2005 at 10:30 a.m. to consider the Community Development Block Grant Program Economic Development Planning and Technical Assistance Grant for the countywide Manufacturing Institute design.

#### Mental Health

10. Approve and authorize Chairman to sign Renewal Contract No. 2004239 with Central Valley Regional Center to provide accessible and appropriate levels of services to individuals who are both developmentally disabled and seriously emotionally disturbed.

11. Approve and authorize Chairman to sign Renewal Contract No. 2004091 with Mariposa County Behavioral Health and Recovery for Inpatient Services at Marie Green Psychiatric Health Facility.
12. Proclaim October 25 through 31, 2005 as "Red Ribbon Celebration Week in Merced County" and authorize the wearing and displaying of red ribbons that week.

#### Sheriff

13. Approve and authorize Chairman to sign Renewal Contract No. 2005231 with City of Dos Palos for 911 and 24/7 Dispatch Communication Services.

#### Dept. of Admin. Services

14. Declare excess vehicles listed as Exhibit A as Surplus Property and authorize disposal through Vehicle Public Auction to be held on October 22, 2005 and authorize Chairman to sign Amendment to Contract No. 200219 with Nelson Auctions to conduct said Auction.

#### Child Support Services

15. Approve and authorize Chairman to sign Amendment to Contract No. 2005153 with Sheriff's Department for Plan of Cooperation for the coordination of efforts and responsibilities relating to fees and conditions for service of process of child support program documents on parties in Merced County.

#### Executive Office

16. Act on Claim for Damages submitted by Jhasbir Dhanota as recommended by Executive Office.
17. Approve Budget Transfer submitted by Health-\$8,000 as recommended by Executive Office.

#### Probation

18. Approve and authorize Chairman to sign Renewal Contract No. 2003059 with Merced County Jail Ministry for educational, counseling and religious services for minors at the Juvenile Justice Correctional Complex.

#### Dept. of Workforce Investment

19. Set public hearing for October 25, 2005 at 10:30 a.m. to consider Proposed Ordinance establishing a Fee for Translation Services by Workforce Investment for businesses.

#### Board of Supervisors

20. Approve Minutes of Board of Supervisors Meeting for April, May, June, July and August, 2005.

#### Board Recognition

21. Authorize Certificate of Recognition to Winton School District for Ground Breaking Ceremony of the Winton Middle School Classroom Wing Addition.
22. Authorize Certificate of Recognition to Food 4 Less for sponsorship of the Battle of the Westside Big Game Rally.
23. Authorize Certificates of Recognition to Merced County Hispanic Chamber of Commerce to Member of the Year-Tom Hawker, County Bank; Business of the Year-Carniceria Vallarta,

Owner Fernando Rodriguez; Man of the Year-John Chavez and Woman of the Year-Mary Ellen Chavez.

24. Authorize Certificate of Recognition to Ken DeVoe in recognition of 25 years of dedicated service to the Atwater Community.
25. Authorize Certificate of Recognition to Castle Air Museum in observance of POW/MIA Recognition Day.
26. Authorize Certificate of Recognition to Ned Miller for dedicated service to the medical community and the County of Merced.
27. Proclaim the month of September, 2005 as "Merced Rescue Mission Month" in the County of Merced.
28. Proclaim October, 2005 as "Lupus Awareness Month" in the County of Merced.
29. Proclaim October 1, 2005 as "Comcast Cares Day" in the County of Merced.

## REGULAR CALENDAR

### BOARD ACTION

#### PUBLIC WORKS

30. Contract with Central Striping for the Raised Pavement Markers at Various Locations throughout Merced County.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005229 AYES: ALL**

31. Authorize expenditure from Special Board Project Funds-District Five in the amount of \$1,000 for Los Banos/Merced County Spring Fair to assist with the equipment rental for the Area Agency on Aging County sponsored "Salute to Seniors Fair in Los Banos" and approve the necessary budget transfer (#008).

**APPROVED AS RECOMMENDED AYES: ALL**

32. Joint Use Contract with California Northern Railroad Company for a 28' wide strip of easement along Ingomar Grade.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005230 AND ADOPTED RESOLUTION NO. 2005-168 AS RECOMMENDED AYES: ALL**

#### PROBATION

33. Approve Progress Report for the Juvenile Justice Crime Prevention Act and authorize Chief Probation Officer to submit said report to the Corrections Standards Authority (formerly known as the Board of Corrections).

**APPROVED AS RECOMMENDED AYES: ALL**

#### MENTAL HEALTH

34. Contract with California Psychiatric Transitions for Mental Health Rehabilitation Center for the admission of one adult client with special conditions.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005232 AYES: ALL**

#### SHERIFF

35. Contract with U.S. Dept. of Justice, Office of Justice Assistance for 2005 Bulletproof Vest Partnership Grant to protect the lives of law enforcement officers by helping equip officers with protective vests.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005233 AYES: ALL**

36. Accept donations from 1990 Sheriff's Dept. Aero Squadron, Los Banos and transfer funds to increase line item 22100/22324 Aircraft Expense thereby assisting to offset aircraft costs of the Sheriff Airplanes in the amount of \$580.25. (4/5 Vote Required)

**APPROVED AS RECOMMENDED AYES: ALL**

#### HEALTH

37. Contract No. 2004375 with Healthy House Within a MATCH Coalition for the purpose of providing transportation coordination and other health care related services to newly arrived Hmong refugees.

**APPROVED AS RECOMMENDED AYES: ALL**

#### HUMAN SERVICES AGENCY

38. Contract with Caton Properties for office space at 1577 West Main Street, Merced due to overcrowding and space limitation.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005234 AYES: ALL**

39. Contract with Merced County Food Bank in the amount \$23,442 for Brown Bag services.

**REVIEW BOARD ORDER – SEE PAGE 10**

40. Authorize adjustment of wages per State Personnel Board decision for Employee No. 10039 for Pay Period 8 (2004) and Pay Period 22 (2004) through Pay Period 14 (2005).

**APPROVED AS RECOMMENDED AYES: ALL**

41. Approve Merced County Three-Year Child Abuse Prevention, Intervention and Treatment (CAPIT)/ Community Based Child Abuse Prevention (CBCAP)/ Promoting Safe and Stable Families (PSSF) Three Year Plan for Fiscal Year 2005-2008 and authorize Chairman to sign Notice of Intent for contracting with public or private nonprofit agencies to provide primary prevention services.

**ADOPTED RESOLUTION NO. 2005-125 AND AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005236 AYES: ALL**

#### COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

42. Contract with Federal Aviation Administration for Category III Instrument Landing System (ILS) Study for Runway 31 at Castle Airport and approve the necessary budget transfer-\$24,000.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005228 AYES: ALL**

43. Contract with American School of Aviation, Inc. for sublease of Building 1322 at Castle Airport Aviation and Development Center to relocate their flight school from San Jose. (HELD OVER)

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005237 AYES: ALL**

44. Contract with Merced County Office of Education for the Early Childhood Educational Facilities-Head Start Program for use of Building 465 and 467 at Castle Airport Aviation and Development Center.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005242 AYES: ALL**

45. Contract with Merced County Office of Education for Administrative Services-Head Start Program for use of Building 1310 at Castle Airport Aviation and Development Center.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005243 AYES: ALL**
46. Declare Equipment in Building No. 1582, the dual element electric griddle formerly used in the Air Force Alert Facility to be Surplus Property and authorize the transfer to the Gustine Lions Club.  
**APPROVED AS RECOMMENDED AYES: ALL**
47. Resolution electing to receive a portion of the Tax Increments pursuant to Health and Safety Code Section 33606.5.  
**ADOPTED RESOLUTION NO. 2005-169 AS RECOMMENDED AYES: ALL**
48. Resolution electing to receive all or any portion of the tax revenue pursuant to Section 33676 of the California Community Redevelopment Law.  
**ADOPTED RESOLUTION NO. 2005-170 AS RECOMMENDED AYES: ALL**
49. Resolution consenting to and calling for a Joint Public Hearing on the Proposed Redevelopment Plan for the Castle Airport Aviation and Development Center Redevelopment Project and set public hearing for November 8, 2005 at 10:30 a.m.  
**ADOPTED RESOLUTION NO. 2005-171 AS RECOMMENDED AYES: ALL**

AUDITOR

50. Contract with Secretary of State Office for Help America Vote Act (HAVA) Grant Funds in the amount of \$18,122.92 to determine Merced's compliance with HAVA Section 261 and make improvements as necessary within the allocated amount and approve the necessary budget transfer. (4/5 Vote Required)  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005238 AYES: ALL**

DISTRICT ATTORNEY

51. Authorize the Federal Annual Certification Report for the Federal Forfeiture Program for FY 2004/2005 for both the Sheriff and District Attorney and authorize the Chairman to sign the Renewal Federal Equitable Sharing Contract for the Sheriff and District Attorney.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005239 WITH SHERIFF AND CONTRACT NO. 2005240 WITH DISTRICT ATTORNEY AYES: ALL**

HUMAN RESOURCES

52. Authorize increasing the hourly rate for Extra Help Paid Call Firefighter from \$7 per hour to \$9.47 per hour and authorize the Driver/Operator Differential of \$1.69 per hour and adopt Resolution.  
**ADOPTED RESOLUTION NO. 2005-172 AS RECOMMENDED AYES: ALL**

EXECUTIVE OFFICE

53. Authorize expenditures of \$2,065.02 to Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP in excess of the original FY 2004/2005 Engagement Agreement-Contract for Employee Benefits Professional Services in the amount of \$10,000.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005241 AYES: ALL**

BOARD APPOINTMENTS

54. Workforce Investment Board - Resignation of Ned Miller, accept resignation and post vacancy.

**APPROVED AS RECOMMENDED AYES: ALL**

55. Advisory Board on Alcohol and Other Drug Problems - District Four.

**APPOINTED REVEREND A.N. MARY ADELSBERGER TO SERVE AS A MEMBER OF THE ADVISORY BOARD ON ALCOHOL AND OTHER DRUG PROBLEMS REPRESENTING DISTRICT FOUR UNTIL JUNE 30, 2009 AYES: ALL**

BOARD INFORMATION & POSSIBLE ACTION

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

56. Dept. of Workforce Investment re: 2005/2006 WIA Subgrant Agreement R292484, Modification 3, with the State Employment Development Department.

57. Merced County Redevelopment Agency re: Statement of Preparation of the Redevelopment Plan for the Castle Airport Aviation and Development Center Redevelopment Project.

58. San Joaquin Valley Air Pollution Control District re: Notice of Public Workshop on the Draft 2006 PM10 Plan on October 21, 2005 at 1:30 p.m. in Fresno and Bakersfield District Offices.

59. State Water Resources Control Board re: Notice of Revised Notice of Public Hearing to determine whether to: (1) Adopt Draft Cease and Desist Orders against the U.S. Bureau of Reclamation and Calif. Dept. of Water Resources and (2) Reconsider the Conditional Approval of the April 25, 2005 Water Quality Response Plan for use of Joint Points of Diversion by the United States Bureau of Reclamation and the Calif. Dept. of Water Resources, Sacramento River, San Joaquin River and Sacramento-San Joaquin-Delta Channels San Joaquin County for October 24, 2005 at 10:00 a.m. in Sacramento.

60. State Water Board re: Workshop set for October 5, 2005 at 10:00 a.m. in Sacramento.

**ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF DAVID TESONE AND DOROTHY GOMES UNTIL TUESDAY, OCTOBER 18, 2005 AT 10:00 A.M.**



## **BOARD ORDERS – SUMMARY ACTION MINUTES – OCTOBER 4, 2005**

### **10:30 A.M. SCHEDULED ITEM** **2005-10-04 PLANNING – PUBLIC HEARING**

The time and date previously set for a public hearing to consider an Appeal to the Planning Commission decision to deny Minor Subdivision Application No. 05021. Said application submitted by the Stillman Family Trust is to divide 157 acres into seven parcels: Parcel 1 through 6 being 20 acres in size and Parcel 7 being 36.8 acres on property located on the north side of Childs Avenue and 750 feet east of Burchell Avenue in Planada.

Planner III James Holland reviews the Staff Report and advises the Planning Commission denied the application due to the inability to make the Findings listed in the Staff Report and recommends the Board uphold the Planning Commission decision.

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

Representing the Stillman Family Trust and property owner Tom Stillman states he and his wife own and farm the property and have no planned changes for this land. Mr. Stillman comments on two letters not addressed at the Planning Commission from the Furey Family dated August 24, 2005 stating the information is false. He further comments on preliminary meetings with the Planning Department and the issues that have arisen with the Furey's. He advises there is one other letter that was left out of the response to the Board from the Planning Department dated June 13<sup>th</sup> dealing with CEQA and resubmits to the Board.

Mary Furey resident next to the Stillman property reads into record and submits documents on her opposition to this appeal and asks the Board to uphold the Planning Commission's decision.

Alicia Rodriguez, resident across the street from the Stillman's property, requests the Board uphold the Planning Commission's denial.

Merced County Farm Bureau Executive Director Diana Westmoreland Pedrozo opposes the project, requests the Board deny the appeal and take another look at the General Plan and update the plan.

Rochelle Kock, Community Alliance with Family Farmers (CAFF), reads and submits a letter into the record opposing the appeal and asks for a new General Plan and Comprehensive Water Study be conducted before any more projects are approved.

James R. Furey, resident next to the Stillman property, opposes the appeal and asks the Board to uphold the Planning Commission's decision.

Co-Property Owner Joyce Stillman reads a letter into the record, dated April 12, 2004, from her husband Tom Stillman written and sent to Ric Furey. She also reads a letter into the record

dated October 3, 2005 from Mark Mayo, Managing General Partner of the Mayo Dairy, in favor of the appeal stating he was unable to attend the meeting.

Larry Bowers, Bedesen-Cardoza & Associates, Inc., on behalf of Bill Gnass for the Stillman Family, submits a document into the record requesting the Board adopt legally required Written Findings as to why this proposal is not consistent with the Merced County Zoning and the adopted Merced County General Plan if denied as recommended by the Planning Commission.

Larry Rodriguez, resident across the street from the Stillman property, questions the use of the lake on Mr. Stillman's property stating he sees little signs of fish farming, more signs of boating activities and is opposed to this appeal.

Tom Stillman responds to comments on water and farming issues.

Supervisor O'Banion advises a letter was received via fax in opposition of the appeal signed by Lydia Miller, San Joaquin Valley Raptor Rescue Center; Bryant Owens, Planada Community Development Corporation; Steve Burke, Protect Our Water; and David Corser, Planada Association and states it will be part of the record.

Supervisor O'Banion reviews the recommendations before the Board stating Counsel also suggested the Board should adopt written findings due to the letter received from Mr. Gnass.

Following a lengthy discussion, Supervisor Kelsey moves, seconded by Supervisor Crookham, the Board request the project go back to Staff to address the issues and concerns that all the Board Members have brought forward today, for a CEQA Compliance Review and consideration to go back through the process again rather than killing the project or approving the project.

The Chairman calls for a Vote on the Motion. Motion carries.

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

### **CONSENT ITEM NO. 39**

#### **2005-10-04 HUMAN SERVICES AGENCY**

The Clerk announces the Contract with the Merced County Food Bank is before the Board for consideration.

Supervisor Kelsey leaves the Board Chambers due to her involvement with the Merced County Food Bank.

Upon motion of Supervisor Crookham moves, seconded by Supervisor Pedrozo, duly carried, the Board approves and authorizes the Chairman to sign Contract No. 2005235 with Merced County Food Bank in the amount of \$23,442 for Brown Bag services at various locations throughout the County.

Ayes: O'Banion, Pedrozo, Crookham, Nelson

Not Present: Kelsey