



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, JULY 18, 2006
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
CHAIRMAN 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

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.*

The Agenda is available online at www.co.merced.ca.us

Members of the public are advised that all pagers, cellular telephones and any other communication devices are to be turned off upon entering the Board Chambers

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The Agenda is divided into three sections:

CONSENT CALENDAR – These matters include routine financial and administrative actions and are approved by a single majority vote.

SCHEDULED ITEMS – These items are noticed hearings, work sessions and public hearings.

REGULAR CALENDAR – These items include significant policy and administration actions. Immediately after approval of the CONSENT CALENDAR, if the time of the hearing of SCHEDULED ITEMS has not arrived, the REGULAR CALENDAR will be considered.

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 Real Property Negotiator(s) John Fowler, Director-Commerce, Aviation and Economic Development pursuant to Government Code Section 54956.8 as follows: Castle Property

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 of Section 54956.9(a): County of Merced v. Lucia and Daniel DeLeon Merced County Superior Court Case No. 149440.

REVIEW BOARD ORDER – SEE PAGE 7

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

REVIEW BOARD ORDER – SEE PAGE 7

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 (Testimony limited to five minutes per person)

REVIEW BOARD ORDER – SEE PAGE 8

PRESENTATIONS

Kiwanis Club of Greater Merced - 50th Anniversary

PRESENTATION OF SERVICE PINS *A Reception will be held in Room 310 to honor the awards*

10 YEARS OF SERVICE, Deidre F. Kelsey, Board of Supervisors
15 YEARS OF SERVICE, Helene Mitchell, Human Services Agency
and Jerry O'Banion, Board of Supervisors

REVIEW BOARD ORDER – SEE PAGE 8

10:00 A. M.

PRESENTATION AND INTRODUCTION OF THE SAN JOAQUIN VALLEY REGIONAL BLUE PRINT BY MCAG

REVIEW BOARD ORDER – SEE PAGE 8

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 8)

APPROVED AS RECOMMENDED AYES: ALL

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT - PUBLIC HEARING - PROPOSED ORDINANCE - SECOND READING AND POSSIBLE ADOPTION

To consider Ordinance amending Business License Ordinance allowing for the deletion of Section 6.02.050(b) under "Term of Business License" (Amends Ordinance No. 1705 and Chapter 6.02)

REVIEW BOARD ORDER – SEE PAGE 8 AND 9

REPORTS/BOARD DIRECTION

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

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 8)

APPROVED AS RECOMMENDED AYES: ALL

Mental Health

1. Approve and authorize Chairman to sign Renewal Contract No. 2000159 with Quest Diagnostics for laboratory testing services.
2. Approve and authorize Chairman to sign Renewal Contract No. 2004167 with Merced Faculty Associates for consumers physicals at Marie Green Psychiatric Health Facility.

Executive Office

3. Act on Claim for Damage received from Carolina Souza as recommended by Risk Management.
4. Approve and authorize Chairman to sign Renewal Contract No. 2005155 with Freese and Gianelli Claim Service, Inc. for Liability Claims Management Services.

Probation

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

District Attorney

6. Approve and authorize Chairman to sign Renewal Contract No. 2003088 with the Governor's Office of Emergency Services for Anti-Drug Abuse Enforcement Program.

ADOPTED RESOLUTION NO. 2006-136

7. 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. 2006-137

Board Recognition

8. Authorize Certificates of Recognition to the Leadership Merced Graduation Class 21.

REVIEW BOARD ORDER – SEE PAGE 9

REGULAR CALENDAR

BOARD ACTION

TREASURER

9. Contract with Wells Fargo Bank for Banking Services.

REVIEW BOARD ORDER – SEE PAGE 9

PUBLIC WORKS

10. Contract and Addendum with Cimarex Energy Company to allow sub-surface extraction of gas and/or oil under the County-owned parcel of land also known as O'Banion Park in Dos Palos.

AUTHORIZED CONTRACT NO. 2006196 AS RECOMMENDED AYES: ALL

11. Approve the Environmental Purchasing Policy for the County of Merced in accordance with Assembly Bill 939 and Senate Bill 1066.

APPROVED AS RECOMMENDED AYES: ALL

EXECUTIVE OFFICE

12. Contract with Attorney Ernest Spokes for Indigent Defense Services.

AUTHORIZED CONTRACT NO. 2006197 AS RECOMMENDED AYES: ALL

SHERIFF

13. Accept the \$20,000 Grant Award and authorize Chairman to sign Contract with State Dept. of Justice to convert the local mug shot line up and inmate photo imaging system to interface with the Department of Justice, Bureau of Criminal Investigation, Cal PHOTO System.

AUTHORIZED CONTRACT NO. 2006198 AS RECOMMENDED AYES: ALL

14. Accept the \$31,456 from Federal Department of Justice, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant Program and authorize Chairman to sign Contract for updating the Merced County Warrant System to a web-based system.

AUTHORIZED CONTRACT NO. 2006199 AS RECOMMENDED AYES: ALL

COUNSEL

15. Grant the Request for a Waiver of a Potential Conflict of Interest received from Kirsten Corey to allow her to accept a position with the law firm of McCormick, Barstow, Sheppard, Wayte & Carruth, LLP and authorize the Chairman to sign the Consent to Representation form.

REVIEW BOARD ORDER – SEE PAGE 10

FIRE

16. Approve Budget Transfer for Fire-\$6,000 as recommended by Executive Office.

APPROVED AS RECOMMENDED AYES: ALL

DEPT. OF ADMINISTRATIVE SERVICES

17. Contract with Geil Enterprises, Inc. for contracted janitorial services for five sites requiring cleaning at various locations in Livingston and Merced.

AUTHORIZED CONTRACT NO. 2006200 AS RECOMMENDED AYES: ALL

18. Contract with Araiza's Express Janitorial Services for contracted janitorial services for six sites requiring cleaning at various locations in Los Banos.

AUTHORIZED CONTRACT NO. 2006201 AS RECOMMENDED AYES: ALL

19. Contract with Hankerson Cleaning Service for contracted janitorial services for three sites requiring cleaning at various locations in Atwater, Livingston and Merced.

AUTHORIZED CONTRACT NO. 2006202 AS RECOMMENDED AYES: ALL

20. Contract with Varsity Contractors, Inc. for contracted janitorial services for the twelve sites requiring cleaning at various locations in Atwater and Merced.

AUTHORIZED CONTRACT NO. 2006203 AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

21. Resolution acknowledging the resignation of Gordon Spencer, District Attorney and Public Administrator effective July 14, 2006 and directing the Auditor/Controller to recover previously issued payments under Merced County Unrepresented Management Resolution No. 06-115, Section 5.D. Successor Delineation.

REVIEW BOARD ORDER – SEE PAGE 10

BOARD APPOINTMENTS

22. PULLED

23. McSwain Municipal Advisory Council – Reappoint John Voris to serve as a member of the McSwain Municipal Advisory Council until July 26, 2010.

APPROVED AS RECOMMENDED AYES: ALL

24. Lower San Joaquin Levee District – Reappoint Robert D. Kelley, Jr. to serve as a member of the Lower San Joaquin Levee District until June 4, 2010.

APPROVED AS RECOMMENDED AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

25. Orange County Board of Supervisors re: Amendments to Voting Rights Act Re-Authorization (HR 9) support.

26. Governor's Office of Emergency Services re: Notification that USDA granted a Secretarial disaster designation for specific Counties and contiguous Counties due to agriculture losses caused by unprecedented rainfall and severe weather conditions that occurred from December 17, 2005 through April 26, 2006.

27. Governor's Office of Emergency Services re: Notification of U.S. Small Business Administration declaration of primary Counties and the contiguous Counties as a disaster

area as a result of a June 15, 2006 USDA disaster designation due to agricultural losses caused by unprecedented rainfall and severe weather conditions that occurred from December 17, 2005 through April 26, 2006.

28. State Water Resources Control Board re: Notice of Public Opportunity for additional public comment on total residual chlorine and chlorine-produced oxidants policy of California.
29. California Environmental Protection Agency re: Shasta River, Total Maximum Daily Load adopted by the North Coast Regional Board.
30. State Air Resources Board re: Notice of Public Availability of Modified Text - Public Hearing to consider the adoption of a diesel-fueled vehicles owned or operated by public agencies and utilities. (On file with Clerk)
31. State Water Resources Control Board re: Notice of Stakeholder Meetings - Model Ocean Discharge Monitoring Workshops, California Ocean Plan Amendment.

ADOPTED RESOLUTION IN MEMORY OF PAT LEIDERITZ AND ADJOURNED MEETING UNTIL TUESDAY, JULY 25, 2006 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – JULY 18, 2006

9:00 A. M. SCHEDULED ITEM **2006-07-18 CLOSED SESSION**

The Clerk announces the following items are scheduled for Closed Session:

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

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 of Section 54956.9(a): County of Merced v. Lucia and Daniel DeLeon, Merced County Superior Court Case No. 149440.

The Board recesses at 9:00 a.m. and reconvenes at 10:00 a.m. with all members present. The Chairman advises in the case of County of Merced v. Lucia and Daniel DeLeon, Merced County Superior Court Case No. 149440, the County has executed a Settlement Agreement, the County will dismiss this lawsuit and Mr. and Mrs. DeLeon will pay administrative costs and maintain the property in compliance with the County Code.
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

10:00 A. M. ADDED AGENDA ITEM **2006-07-18 EXECUTIVE OFFICE**

The Clerk advises subsequent to the posting of the Agenda for the Board of Supervisors Meeting of July 18, 2006, the need for action arose regarding the District Attorney vacancy.

Upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board finds the need to take action arose subsequent to posting of the July 18, 2006 Agenda and places the item on the agenda for consideration.

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

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board appoints Larry D. Morse II as District Attorney and Public Administrator effective July 18, 2006 pursuant to the authority of California Government Code Section 25304 and authorizes Mr. Morse to receive all "A" level benefits effective July 18, 2006 and adopts Resolution No. 2006-139.
Ayes: Nelson, Pedrozo, Crookham, Nelson, Kelsey, O'Banion

10:00 A. M. SCHEDULED ITEM
2006-07-18 PUBLIC OPPORTUNITY

Grant Wilson asks verification of receipt of a letter directed to the Board by Mr. Wilson. Chairman Nelson states a letter was received and a response will be provided to Mr. Wilson.

Rachel Hirshwin urges the Board to review all implications in the consideration of the projects that can be detrimental to the residents in Merced County such as the raceway and the Wal Mart Distribution Center.

Greg Hostettler, Ranchwood Homes, appears before the Board relative to concerns on recent events of land purchases that included the Sheriff and the District Attorney and reviews the purchase history and his concerns on comments made by the Board.

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

10:00 A. M. SCHEDULED ITEM
2006-07-18 PRESENTATION OF SERVICE PINS

The Board presents Service Pins to the following employees:

15 Years of Service: Helene Mitchell-Human Services Agency and Jerry O'Banion-Board of Supervisors.

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

10:00 A. M. SCHEDULED ITEM
2006-07-18 PRESENTATION

The Board presents a Certificate of Recognition to the Kiwanis Club of Greater Merced in Celebration of their 50th Anniversary July 18, 1956 – July 18, 2006.

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

10:00 A.M. SCHEDULED ITEM
2006-07-18 MCAG – PRESENTATION

The Clerk announces the San Joaquin Valley Regional Blue Print presentation by Merced County Association of Governments (MCAG) is before the Board for consideration.

Merced County Association of Governments (MCAG) Executive Director Jesse Brown briefly highlights and summarizes the San Joaquin Valley Regional Blue Print Grant.

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

10:00 A.M. SCHEDULED ITEM
2006-07-18 COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT – PUBLIC HEARING

The date and time previously set for a public hearing to consider Second Reading and possible adoption of proposed ordinance: An Ordinance amending Business Licenses as submitted by Commerce, Aviation and Economic Development.

The Clerk reads the Proposed Ordinance by title only: An Ordinance Amending "Business Licenses" (Deletes Section 6.02.050 (b) of Chapter 6.02 of the Merced County Code and Amends Ordinance No. 1705).

Upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried, the Board waives further reading of the Proposed Ordinance.

The Chairman opens the Public Hearing. No one speaks.

The Chairman closes the Public Hearing.

Upon motion of Supervisor Crookham, seconded by Supervisor O'Banion, duly carried, the Board adopts Ordinance No. 1784.

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

CONSENT ITEM NO. 8

2006-07-18 BOARD OF SUPERVISORS

Upon motion of Supervisor Pedrozo, seconded by Supervisor Crookham, duly carried, the Board authorizes Certificates of Recognition to Leadership Merced Class 21 Graduates: Danielle Bohn, Merced County Administration; Manual Byrd, Trans County Title Company; Derrek Dean, Valley High School; Marvin Dillsaver, Merced Police Department; Maggie Divird, Merced Sun-Star; Saied Djavadi, Werner Company; Isaias Franco, Merced Irrigation District; Anna Fuentes, MCAG; Jimmy Gonzales, Toconis Personnel Services; Nancy Goodban, Human Services Agency; Michael Herrera, Hoffman Electronic Systems; Kitt Krumm, Safeway, Inc.; Bruce Logue, Life Spring Church; Carol Longobardi, Atwater Elementary School District; Martha MacKenzie, Human Services Agency; Lee H. Morse, Condor Earth Technologies, Inc.; Justin Parle, Branding Iron Restaurant; Alexie Santos, CA Home Care & Hospice; Adam Saxon, On Target Marketing; Patricia Usry, Dole Frozen Foods and Chris Winek, County Bank.

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

ACTION ITEM NO. 9

2006-07-18 TREASURER

The Clerk announces the Contract with Wells Fargo Bank for banking services is before the Board for consideration.

Auditor-Controller Steve Jones and Treasurer-Tax Collector Karen Adams review the staff report, the RFP process and the time frame change from the current system.

Upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried, the Board authorizes the Chairman to sign Contract No. 2006195 with Wells Fargo Bank for banking services for the County of Merced.

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

ACTION ITEM NO. 15

2006-07-18 COUNTY COUNSEL

The Clerk announces the Request for a Waiver of a Potential Conflict of Interest received from Kirsten Corey is before the Board for consideration.

County Counsel Ruben Castillo states Ms. Corey represented the County in a workers compensation case and the Request for a Waiver is a precaution as part of due diligence to obtain a waiver of conflict from the County with respect to litigation that might arise from her employment with the McCormick firm. Mr. Castillo advises Ms. Corey will not be handling Worker Compensation issues.

Upon motion of Supervisor Pedrozo, seconded by Supervisor O'Banion, the Board authorizes the Chairman to sign the Request for Waiver of Conflict and Consent to Representation Form for Kirsten Corey, Attorney with Law Firm of Yohman, Parker, Kern, Nard & Wetzell, to waive a potential conflict of interest to allow her to accept a position with the Law firm of McCormick, Barstow, Sheppard, Wayte and Carruth, LLP.

Ayes: Nelson, Pedrozo, Crookham, O'Banion

Noes: Kelsey

ACTION ITEM NO. 21

2006-07-18 DISTRICT ATTORNEY

The Clerk announces the Resolution acknowledging the written resignation of Gordon Spencer, District Attorney and Public Administrator is before the Board for consideration.

Following discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, the Board acknowledges the immediate resignation of Gordon Spencer as District Attorney and Public Administrator effective July 14, 2006 and directs the Auditor/Controller to recover previously issued payments under Merced County Unrepresented Management Resolution No. 06-115, Section 5.D., Salary Paid under the Successor Delineation provisions understanding the Board is reserving its right pending the Attorney General opinion on funds and adopts Resolution No. 2006-138.

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