



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, DECEMBER 12, 2006
Closed Session – 5:00 p.m.
Regular Meeting – 6:00 p.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

JAMES N. FINCHER
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

**HEARING ASSISTANCE DEVICES ARE AVAILABLE FOR PUBLIC USE
INQUIRE WITHIN THE BOARD OF SUPERVISORS OFFICE**

Persons who require accommodation for any audio, visual or other disability in order to review an agenda, or to participate in a meeting of the Board of Supervisors per the American Disabilities Act (ADA), may obtain assistance by requesting such accommodation in writing addressed to the Clerk of the Board, 2222 M Street, Merced, CA 95340 or telephonically by calling (209) 385-7366. Any such request for accommodation should be made at least 48 hours prior to the scheduled meeting for which assistance is requested

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

5:00 P. 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), County Executive Officer and designated staff pursuant to Government Code Section 54956.8 as follows: 627 West 21st Street and 2260 N Street, Merced, CA

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 San Diego v. San Diego NORML et al., San Diego Superior Court Case Number GIC 860665

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL -

SIGNIFICANT EXPOSURE TO LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Government Code Section 54956(b): One Case

REVIEW BOARD ORDER – SEE PAGE 7

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

6:00 P. M.

PLEDGE OF ALLEGIANCE

PRESENTATION

Recognition - State Probation Officer of the Year by the 2006 Chief Probation Officers' of California (CPOC) – Deputy Probation Officer Barbara Glaze

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 7

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Health - \$500; Sheriff - \$33,000, \$25,000, \$193,000, \$55,000 and \$225,000

APPROVED AS RECOMMENDED AYES: ALL

6:00 P. M.

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 14)

APPROVED AS RECOMMENDED AYES: ALL

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT - PUBLIC HEARING

Request the Board include for the public record the advisory comments received from the Merced County Airport Land Use Commission dated November 9, 2006 and the Caltrans Division of Aeronautics dated November 21, 2006; Request the Board overrule the decision and findings regarding the Airport Land Use Commission October 1, 2003 finding of inconsistency between the Merced County Airport Land Use Plan and the Riverside Motorsports Park Project and adopt the Resolution

REVIEW BOARD ORDER – SEE PAGE 11, 12, AND 13

REPORTS/BOARD DIRECTION

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

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 14)

APPROVED AS RECOMMENDED AYES: ALL

Library

1. Authorize all Merced County Libraries (Merced, Atwater, Cressey, Dos Palos, George, Gustine, Hlimar, Le Grand, Livingston, Los Banos, Santa Nella, Snelling, South Dos Palos, Stevinson and Winton) to close on Tuesdays following an official Monday holiday.

Health

2. Approve and authorize Chairman to sign Amendment to Contract No. 2000175 with State Dept. of Health Services-Office of AIDS for Housing Opportunities for people with AIDS (HOPWA).

Board Recognition

3. Authorize Certificate of Recognition to Brandon Friesen for dedicated service as Mayor of the City of Livingston.
4. Authorize Certificate of Recognition to Yosemite Hide for Ribbon Cutting Ceremony.
5. Authorize Certificates of Recognition to Jim Bonta, Mayor of the City of Gustine and Mark Melville, Councilmember of the City of Gustine for their dedicated service.
6. Authorize Certificates of Recognition to the following individuals for Outstanding Agricultural Contributions to Merced County and Proclaim November 17 - 23, 2006 as 2006 Farm-City Week: Walt Adams, Agri Business, Darol Fishman-Agri Education, David Santos-Field Crops, Delores Cabezut-Ortiz-Livestock Dairy and Louie Bandoni-Trees & Vines.

Spring Fair

7. PULLED

- 8. PULLED
- 9. PULLED

Executive Office

- 10. Approve and authorize Chairman to sign Renewal Contract No. 2003283 with Merced County Coalition of Unions for Health, Dental and Vision Coverage for 2007.

Board Recognition

- 11. Authorize Certificates of Recognition to Rodolfo Lopez-Boys State; Liliana Ponce-Girls State, Jessica St. Jean-Miss Gustine Queen and Susanne Pena-Rotary Public Speaking on behalf of Gustine High School.
- 12. Authorize Certificate of Recognition to Gladys Escola in recognition of the dedication ceremony of Gladys Escola Zoo Gift Shop.

Sheriff

- 13. Approve Budget Transfer in the amount of \$7,000 for Sheriff as recommended by Executive Office.

Public Works

- 14. Approve Budget Transfer in the amount of \$3,800 for Public Works as recommended by Executive Office.

REGULAR CALENDAR

BOARD ACTION

MENTAL HEALTH

- 15. Contract with Livingston Medical Group for clinical staff to provide Mental Health services at Livingston Medical Group.
AUTHORIZED CONTRACT NO. 2006314 AS RECOMMENDED AYES: ALL

HUMAN SERVICES AGENCY

- 16. Contract with Larry Wolfsen for lease of additional space for Los Banos Westside Family Service.
AUTHORIZED CONTRACT NO. 2006315 AS RECOMMENDED AYES: ALL

HEALTH

- 17. Contract with Merced County Office of Education for the Child Health and Disability Prevention Program and Childhood Lead Poisoning Prevention Program and Merced County Office of Education Head Start for early care and education services.
AUTHORIZED CONTRACT NO. 2006316 AS RECOMMENDED AYES: ALL
- 18. Resolution authorizing submission of the Waste Tire Enforcement Grant for 2006/2007 in the amount of \$80,871.
ADOPTED RESOLUTION NO. 2006-216 AS RECOMMENDED AYES: ALL

COUNTY COUNSEL

19. Resolution approving and ordering the Territory Transfer from Turlock Unified School District to Delhi Unified School District and direct the Clerk to certify the Resolution and process.

ADOPTED RESOLUTION NO. 2006-217 AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

20. Authorize Special Board Project Funds-District Three expenditure in the amount of \$2,000 to the Atwater Veterans of Foreign Wars for assistance with kitchen renovation at Atwater VFW Post 9946 and approve necessary budget transfer.

APPROVED AS RECOMMENDED AYES: ALL

21. Resolution supporting a regional approach for marijuana eradication pilot program and authorize the resolution be provided to the Tulare County Board of Supervisors, legislators and interested parties.

ADOPTED RESOLUTION NO. 2006-218 AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

22. Merced County Planning Commission – Reappoint Lynn Tanner, representing District Two, to serve until October 1, 2008.

APPROVED AS RECOMMENDED AYES: ALL

23. Assessment Appeals Board – Appoint Thomas Giralдин, representing Alternate Appraiser Category, to serve until September 4, 2009.

APPROVED AS RECOMMENDED AYES: ALL

EXECUTIVE OFFICE

24. Transfer Agreement and related documents with Judicial Council of California, Administrative Office of the Courts to transfer responsibility for funding and operation of the Old Superior Court Facility and for the conveyance of County's title to Real Property for County property located at 627 West 21st Street, Merced (Old Superior Court Facility) to the State and authorize Auditor to make payments as specified and CEO and Counsel to perform other administrative tasks needed to complete the transfer.

REVIEW BOARD ORDER – SEE PAGE 8

25. Transfer of responsibility for New Court Facility with the Judicial Council of California, Administrative Office of the Courts to transfer responsibility for funding and operation of the New Court Facility and for the conveyance of County's title to Real Property following satisfaction of the debt obligations for County property located at 2260 N Street, Merced to the State and authorize Auditor to make payments as specified and CEO to perform other administrative tasks needed to complete the transfer.

REVIEW BOARD ORDER – SEE PAGE 8 AND 9

PLANNING

26. Riverside Motorsports Park Project Actions:

A. General Plan Amendment No. GPA 03-005 and Zone Change Application No. ZC 03-007 - Consider adoption of Resolution to Certify the Environmental Impact Report (EIR).

B. Board Review and Tentative Decision - General Plan Amendment No. GPA 03-005 and Zone Change Application No. ZC 03-007; Removal of the Project Site from the Williamson Act Agricultural Preserve and adopt Related Findings of Fact, Statement of

Overriding Considerations, Mitigation Monitoring Program and Conditions of Approval.

C. Contract with Riverside Motorsports Park, LLC concerning indemnification for action on the pending General Plan Amendment No. GPA 03-005 and Zone Change Application No. ZC 03-007.

D. Addendum to Contract No. 2004131 with Riverside Motorsports Park, LLC for costs related to the peer review and staff costs of the environmental documents for the Riverside Motorsports Park project.

E. Addendum to Contract No. 2004130 with Planning Partners to expand the scope and cost of the contract for peer review of the environmental documents on the Riverside Motorsports Park Project.

REVIEW BOARD ORDER – SEE PAGE 9,10, 11, 13, 14, 15,16 AND 17

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

27. Dept. of Workforce Investment re: 2006/2007 WIA Subgrant Agreement R760332, Modification 4, with Employment Development Department.
28. University of California, Merced Contribution of \$1,300 to the UC Merced Police Department Mentor Program.
29. Planada Elementary School District re: Fourteen Day notice of Proposal to Implement Development Fees and notice of public hearing.
30. California Dept. of Corrections and Rehabilitation re: Notice of California Code of Regulations pertaining to force used by Correctional Peace Officers as an emergency action that became effective on August 11, 2006.
31. U.S. Dept. of Interior-National Park Service re: Announcement of opening of public scoping for the El Portal Road Reconstruction with comments being accepted from November 13 to December 28, 2006.
32. State Water Resources Control Board re: Notice of Board Meeting set for December 13, 2006.
33. Governor's Office of Emergency Services re: Notice the U.S. Dept. of Agriculture granted a Secretarial disaster designation for the counties of Amador, Contra Costa, San Benito, San Joaquin, Santa Clara, and Yuba and the contiguous counties of Alameda, Alpine, Butte, Calaveras, El Dorado, Fresno, Merced, Monterey, Nevada, Placer, Plumas, Sacramento, San Mateo, Santa Cruz, Sierra, Solano, Stanislaus and Sutter due to agriculture losses caused by a record-setting heat wave that occurred July 1-31, 2006.
34. State Water Resources Control Board re: Revised Draft 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. (On file with Clerk)

**ADOPTED RESOLUTIONS IN MEMORY OF LOGAN WHITEHURST AND FRANK MESA
AND ADJOURNED MEETING UNTIL TUESDAY, DECEMBER 19, 2006 AT 10:00 A.M.**

BOARD ORDERS – SUMMARY ACTION MINUTES – DECEMBER 12, 2006

5:00 P. M. SCHEDULED ITEM **2006-12-12 CLOSED SESSION**

The Clerk announces the items 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), County Executive Officer and designated staff pursuant to Government Code Section 54956.8 as follows: 627 West 21st Street and 2260 N Street, Merced, CA

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 San Diego v. San Diego NORML et al., San Diego Superior Court Case Number GIC 860665

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION: It is the intention of the Board to meet in Closed Session Concerning significant exposure to litigation pursuant to Government Code Section 54956(b): One Case

The Board recesses at 5:00 p.m. and reconvenes at 6:00 p.m. with all members present. The Chairman states in the case of Protect our Water v. County of Merced, Merced Superior Court Case Number 147518, direction was provided to Counsel.
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

6:00 P. M. SCHEDULED ITEM **2006-12-12 PUBLIC OPPORTUNITY**

Grant Wilson thanks the Board for Board action on the Medical Marijuana judgment and requests the Medical Marijuana ID Card program move forward.

Aaron Smith, Safe Access Now, thanks the Board speaking in support of the Medical Marijuana ID Program.

Lisa Kayser-Grant comments on statements at the past Board meeting made by the Chairman to the public.

Tom Grave comments on the Chairman's statement to the public at the past Board meeting.
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

6:00 P. M. SCHEDULED ITEM

**2006-12-12 COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT – PUBLIC HEARING
- PROPOSED ORDINANCE**

See minutes of Action Item No. 26 from Planning relative to Riverside Motorsports Park.

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

ACTION ITEM NO. 24

2006-12-12 EXECUTIVE OFFICE

The Clerk announces the Transfer agreement and related documents to transfer responsibility for funding and operation of the Old Superior Court Facility and for the conveyance of County's title to the Judicial Council of California is before the Board for consideration.

County Executive Officer Dee Tatum provides a summary of the project and reviews the staff report.

Merced Superior Court Presiding Judge Dougherty reviews the history of the Old Courthouse and recognizes staff for their participation.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Crookham, duly carried, the Board approves and authorizes the Chairman to sign and execute the Transfer Agreement-Contract No. 2006303 and any related documents with the Judicial Council of California, Administrative Office of the Courts to transfer responsibility for funding and operation of the Old Superior Court Facility and for the conveyance of County's title to Real Property for County Property located at 627 W. 21st Street, California (Old Superior Court Facility) to the State; authorizes the Auditor-Controller to make the necessary payments to the State as specified in the agreement and authorize the County Executive Officer and County Counsel to perform other administrative tasks needed to complete the transfer.

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

ACTION ITEM NO. 25

2006-12-12 EXECUTIVE OFFICE

The Clerk announces the Transfer of responsibility, funding, and for conveyance of County's title of the New Court Facility to the Judicial Council of California, Administrative Office of the Courts is before the Board for consideration.

County Executive Officer Dee Tatum provides a summary of the project and reviews the staff report.

Merced Superior Court Presiding Judge Dougherty reviews the history of the Old Courthouse and recognizes staff for their participation.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Crookham, duly carried, the Board approves and authorizes the Chairman to sign and execute the Transfer Agreement-

Contract No. 2006304 and Memorandum of Understanding Contract No. 2006305 to transfer responsibility for funding and operation of the New Court Facility and for the conveyance of County's title to Real Property following satisfaction of the debt obligations for County property located at 2260 N Street, California (New Court Facility) to the State; authorize the Auditor-Controller to make payments to the State as specified in the agreement and necessary budget adjustment and authorize the County Executive Officer to perform other administrative tasks needed to complete the transfer.

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

ACTION ITEM NO. 26
2006-12-12 PLANNING

The Chairman announces the Riverside Motorsports Park Project Actions are before the Board for consideration. The Chairman reviews the process of the hearing to be conducted and states the project is divided into the following sections:

26A. General Plan Amendment No. GPA03-005 and Zone Change Application No. ZC03007, Consider adoption of Resolution to certify the program Environmental Impact Report.

26B. Board Review and Tentative Decision - General Plan Amendment No. GPA03-005 and Zone Change Application No. ZC03-007 will follow the decision concerning the overrule of the Airport Land Use Commission; consideration of making an intended decision to remove the project site from the Williamson Act Agricultural Preserve and consider approval of the requested General Plan amendment and Zone Change Applications and adopt the related Findings of Fact, Statement of Overriding considerations and Mitigation Monitoring Program.

26C. Contract with Riverside Motorsports Park, LLC concerning indemnification for action on the pending General Plan Amendment No. GPA03-005 and Zone Change Application No. ZC03-007.

26D. Addendum to Contract No. 2004131 with Riverside Motorsports Park, LLC for costs related to the peer review and staff costs of the environmental documents for the Riverside Motorsports Park Project.

26E. Addendum to Contract No. 2004130 with Planning Partners to expand the scope and cost of the contract for peer review of the environmental documents on the Riverside Motorsports Park Project

Senior Planner James Holland reviews the staff report and powerpoint presentation which highlights the meeting purpose, formal actions before the Board and the processes of the Project EIR and the public hearing.

Public Works Supervising Engineer Steve Rouge reviews the staff report and powerpoint presentation of the traffic circulation system analysis and management plan study.

Mr. Holland continues with the powerpoint presentation and reviews the Air Quality analysis, noise, community outreach and the requested actions before the Board.

Following discussion on the process, the Chairman reviews the action to be considered.

The Board recesses at 7:04 p.m. and reconvenes at 7:22 p.m. with all members present.

The Chairman asks if there is anyone present that wishes to speak on Items 26A through E from the Planning Department on the Riverside Motorsports Park Project.

The following speak in favor of the Riverside Motorsports Park:

John Condren, Riverside Motorsports Park CEO, states staff is available for questions and submits letter dated June 23, 2003 to John Fowler, Central San Joaquin Valley FTZ 226 Administrator; Rorri Maxwell; Kenny Shepherd (Atwater) submits written statement; Jake Jacobs (Fresno); Jacob Penrod (Atwater); Ray Beverly (Merced); Jim Becker (Merced); Sean McCarthy (Gustine); Scott Reisendofer (Fresno) and Carl Pollard.

The following speak in opposition of the Riverside Motorsports Park:

Tom Grave (Merced) submits documents; Karen Crane-McNab (Merced County); Von Chang (Atwater); Brittney Machado (Winton); Stacey Machado (Winton); Annette Allsup (Merced) submits packet dated December 8, 2006; Ron Loewe; Maynard Medefind (Cressey); Galen Miyamoto (Livingston-Winton) submits documents; Jim Womack; Carol Boesch (Cressey); Diane Westmoreland (Merced) and Cindy Lashbrook (Livingston-Cressey).

Richard Jantz (Delhi) reviews concerns with the Riverside Motorsports Project.

The Board recesses at 8:45 p.m. and reconvenes at 9:01 p.m. with all members present.

The following speak in favor of the Riverside Motorsports Project:

Dave Wood (Merced); Bob Atchison (Merced); Don Bergman (Merced) and Bill Glaser (Winton).

The following speak in opposition of the Riverside Motorsports Project:

Dr. John Holmes (Merced), Suzy Hultgren (Winton); Mike Lamanna (Atwater); Glenn Anderson (Hilmar); Louie Bandoni (Merced); Lisa Kayser-Grant (Merced); Candice Adam-Medefind (Merced); Haley Grant (Merced); John Grant (Merced); Beth Kelly, Foster Farms representative; Rochelle Koch (Winton); Judy Doucette (Atwater); Rod Webster (Merced) representing Merced Group Sierra Club/Tehipite Chapter submits petitions and written statement; Justin Ducum, UC student and Patrick Lauppe, student.

Craig Petz (Tracy) reviews concerns with agriculture and the RMP project.

The Board recesses at 10:23 p.m. and reconvenes at 10:40 p.m. with all members present.

The following speak in favor of the Riverside Motorsports Park:

Elena Goldfoos, Golden Valley High School student; Sandy Sorge; Noel Dawson (Merced); and Mark Melville (Gustine) Vice President of Operations-Riverside Motorsports Project.

The following speak in opposition of the Riverside Motorsports Park:

Eric Simmons, Golden Valley High School Environmental Club; Belen Hernandez, Golden Valley High School Student; Dylan Kinney, Golden Valley High School Political Education and Action Committee; Jean Okuye (Livingston) submits statement dated December 12, 2006; Jose Gonzalez (Delhi) Superintendent of Delhi-Cressey School District; Randy Hultgren (Winton), Mary Furey; Dan Sardella; John Grace; Brooklyn Edwards, UC Merced student; and Martin Machado (Atwater).

The Chairman calls and no one else appears to speak on Item 26. The Chairman states therefore consideration of Action on Item 26A, proposed resolution to certify the program Environmental Impact Report is before the Board.

Supervisor Kelsey speaks on the town hall meeting and questions from the town hall meetings regarding right-to-farm ordinance and cumulative impacts on roads.

Following discussion, the Board recesses at 11:33 p.m. and reconvenes at 11:42 p.m. with all members present.

County Counsel James Fincher states for the record an additional letter was received on October 25, 2006 from the Bureau of Prisons and will be part of the record relative to comments on the final EIR and traffic concerns.

Supervisor Kelsey states she will read from a written document she has prepared that addresses concerns with eminent domain, traffic and other impacts stating this project poses irreversible and unmitigable impacts to District 4 residents who have been ignored and disregarded. She states her major areas of concern are centered around inadequate CEQA analysis and general plan nonconformance. She further states the county cannot make overriding considerations without a full understanding of the costs to the public for needed improvements, the costs to existing business and profits lost due to negative impacts such as traffic delays and other inconveniences.

Supervisor Kelsey moves to refer the matter back to staff based on concerns stated.

The Chairman calls for a Vote on the Motion.

Motion dies for lack of a second.

Following discussion, Supervisor O'Banion moves, to certify the program Environmental Impact Report for the Riverside Motorsports Park (RMP) Project, General Plan Amendment No. GPA03-005 and Zone Change Application No. ZC03-007 and adopt Resolution No. 2006-219.

Supervisor Crookham seconds the motion.

Following further comments from Supervisors Crookham, Pedrozo, Kelsey and O'Banion, staff provides further information on the process and options before the Board, berm requirements for sound confinement, standards for roads, EIR processes, changes and re-circulation.

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

Supervisors Pedrozo and Kelsey vote "no". Motion carries.

Ayes: Nelson, Crookham, O'Banion

Noes: Pedrozo, Kelsey

The Board recesses at 12:42 a.m. and reconvenes at 12:52 a.m. with all members present.

The Chairman states the Board will consider the Airport Land Use Commission Public Hearing as follows:

The time and date previously set for a public hearing to consider the Issuance of a Decision and Findings regarding the Airport Land Use Commission's Finding as to Consistency between the

Airport Land Use Plan and the Riverside Motorsports Park project submitted by Commerce, Aviation and Economic Development.

Commerce, Aviation and Economic Development Director John Fowler reviews the staff report and provides a power point presentation.

The Board discusses the conflict between the current April 1999 approved plan and the 2002 approved State of California Airport Land Use Planning Handbook (Caltrans Handbook) for airport area development projects and for preparing Airport Land Use Compatibility plans and the effect on all development at Castle.

Mr. Fowler states any development that will cause the plans to conflict will be brought to the commission and then ultimately to the Board for an override, so that the 2002 handbook can be used until such time as the new master plan is approved using the 2002 handbook.

Supervisor Kelsey requests review of the environmental analysis for the override.

Attorney Kate Hart responds stating Section 4.1 in land use; Mitigation Measure 4.1-1 and regulations; Mitigation Measure 4.6-4 and Section 4.6 of Hazards and Hazardous Materials address the issue in the Draft and in the Final EIR.

The Chairman opens the public hearing and asks if there is anyone present that wishes to speak:

John Condren, Riverside Motorsports Park CEO submits document titled Quoted Segments from the 2002 Caltrans Airport Land Use Planning Handbook.

Tom Grave states concerns with incompatibility of the proposed location for the Riverside Motorsports Park and submits document dated December 12, Regarding October 1, 2003 Finding by the Airport Land Use Commission.

Ray Beverly, experienced aviator, speaks in support of updated plan.

Judy Doucette questions the Airport Land Use Commission review, states concern with the water and sewer situation at Castle and submits a written statement.

Assistant Planning Director and Airport Land Use Commission Staff Bill Nicholson clarifies and states the Commission recognizes there is a new handbook from CalTrans and if the handbook is followed, the project would be compatible and consistent. But their current plan is based on their current handbook and that is the plan that ALUC uses and the Commission does not object to the Board overruling.

Don Bergman states support for the updated plan.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau Executive Director, states concerns with the overriding of the Commission, requests further clarification, questions notification to proper agencies and recommends the Board not approve the resolution and send it back for more consideration.

Lisa Kayser-Grant speaks stating she believes the public welfare is being compromised to accommodate a private development.

Suzy Hultgren states concerns with zone changes and development next to the prison and submits written statement.

Rochelle Koch states concerns with noise and the environmental impacts.

Jean Okuye states concerns with safety and funding.

Mike Lamanna states concerns with development close to the airport.

Lydia Miller, San Joaquin Raptor Rescue Center and Protect Our Water states numerous oral and written comments have been submitted and she does not believe the comments were read or heard. She states information has not been available to the public, the Board should not vote on the matter and submits written documents.

The Chairman closes the public hearing.

Discussion is had on Resolution No. 2006-189, conflict of interest statements and Caltrans letter.

Supervisor Kelsey states concerns of compliance with the EIR on the RMP and therefore, did not support the environmental impact report and will be unable to use the same EIR which objected to in the previous action to support the Airport Land Use Commission.

Following further discussion, Supervisor O'Banion moves, to include for the public record the letters from Caltrans dated November 21, 2006, and the Merced County Airport Land Use Commission's dated November 9, 2006; and approve recommendations of the findings regarding the Airport Land Use Commission October 1, 2003 Finding of Inconsistency between the Merced County Airport Land Use Plan and the Riverside Motorsports Park project and adopt Resolution No. 2006-220.

County Counsel James Fincher states for clarification to the motion, a word was left out and requests the Board overrule the decision and Findings.

Supervisor O'Banion includes the wording to "overrule the decision and findings" to his motion.

The Chairman states that is the wording on the agenda item.

The Chairman calls for a Vote on the Motion.

Supervisor Kelsey votes "no". Motion carries.

Ayes: Nelson, Pedrozo, Crookham, O'Banion

Noes: Kelsey

The Board recesses at 2:03 a.m. and reconvenes at 2:15 a.m.

The Chairman states consideration of Action on Item 26B from Planning is before the Board as follows:

26B. Board Review and Tentative Decision - General Plan Amendment No. GPA03-005 and Zone Change Application No. ZC03-007 will follow the decision concerning the overrule of the Airport Land Use Commission; consideration of making an intended decision to remove the project site from the Williamson Act Agricultural Preserve and consider approval of the requested General Plan amendment and Zone Change Applications and adopt the related Findings of Fact, Statement of Overriding considerations and Mitigation Monitoring Program.

Following discussion, Supervisor O'Banion moves, seconded by Supervisor Crookham to make an Intended Decision to approve General Plan Amendment No. GPA03-005 and Zone Change Application No. ZC03-007; removes the Project Site from the Williamson Act Agricultural Preserve; and Adopts Related Finding of Fact, Statement of Overriding Considerations, Mitigation Monitoring Program and Conditions of Approval as follows:

Planning and Community Development

1. The Riverside Motorsports Park Master Plan is effective for two years from the date of the Board approval. Extensions of time up to three additional years in one year increments may be granted if a written request is submitted to the Development Services Director before the expiration date.
2. If the Master Plan Expires before the uses allowed under an implementing Development Plan are initiated, the Planning Commission may initiate a zone change to consider rezoning the subject property to its original zoning or other appropriate zone.
3. The project, including the Development Plan Administrative permit and any subsequent permit approvals, shall be located, developed and operated in a manner described in the Master Plan as modified by the CEQA mitigation measures, conditions monitoring and reporting program, and conditions of this approval. Any changes or proposed modifications to the approved project would be based on a written request of the applicant to the Planning and Community Development Department.
4. All mitigation measures identified in the Final Environmental Impact Report and Mitigation Monitoring Program are adopted and incorporated by reference as project conditions.
5. Mitigation Measure 4.7-3.C shall be amended to limit the hours for test and tune sessions for all supercharged drag racing vehicles that use Nitromethane, Methanol or Ethanol as their primary fuel source to between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday and after 8:00 a.m. on weekends. The operation of any race vehicle relying on a jet engine for power shall be similarly restricted.
6. The project shall comply with all applicable regulations administered by the County Fire, Health, Planning and Public Works Departments.
7. The project shall comply with all applicable State and Federal regulations as administered by their responsible agencies.

8. The applicant shall submit acceptable proof to the County demonstrating compliance with project-specific State and Federal requirements prior to the issuance of any final building permit approvals.

9. No building permits shall be issued or any other County approvals given until the Development Plan has been reviewed and approved through the Administrative Permit process. This restriction applies to industrial buildings and structures, the initiation of any racing activities and development of the helipad.

10. Prior to approval of the Development Plan required by Section 18.33 of the Zoning Code, the applicant shall enter into a Development Agreement with Merced County in conformance with Article 2.5, Chapter 4, Division 1 of the Government Code. This Development Agreement is necessary to implement the various components of the Riverside Motorsports Park Project. The Development Agreement shall specify developer responsibility for construction and financing all public facility and service improvements required by the County either through application of its improvement standards or through adopted CEQA mitigations.

11. The applicant shall enter into Development Agreement with the County to determine appropriate fee levels and staffing arrangements for the purpose of CEQA mitigation and project approval condition monitoring. These fees shall be paid at the time of Development Plan approval.

12. The applicant shall enter into a Community Benefits Agreement that commits them to a series of benefits that are specific to the nature of the project and the needs of the local community. Such agreement shall be entered into prior to approval of the first development plan under the PD zoning for the property.

13. The applicant shall explore opportunities to come to an agreement with Merced Community College in developing a vocational training program focusing on the motorsports industry. The program will involve the use of onsite facility to educate and provide on the job training for students interested in careers in motorsports. Training shall include but not be limited to;

- a. Racing Vehicle Mechanics and Fabrication
- b. Raceway Safety and Maintenance
- c. Motorsports Marketing
- d. Raceway Facilities Management

14. The applicant shall explore opportunities to come to an agreement with the University of California in developing an academic program focusing on the motorsports industry. The program will involve the use of onsite research and development facilities to conduct research in;

- a. Emerging Mechanical Technologies in Racing Industry
- b. Application of Alternative Fuels Technologies in Motorsports Racing
- c. Motorsports Management
- d. Racing Safety

Public Works Department/Road Division

15. The Development Plan shall precisely identify how the project shall comply with adopted County improvement standards and clearly detail and justify any proposed deviations from these standards.

Planning Commission

16. The height of the earthen berms around sensitive areas shall be increased from 6' to 10' tall. All berms shall be landscaped with fencing installed on top. The entire perimeter of the project site shall also be fenced. In addition, the applicant shall consult with the California Department of Forestry and Fire Protection to provide for effective fire control around the perimeter of the project site.

Additional Public Works Department/Road Division Condition

17. To ensure adequate implementation of the program Environmental Impact Report (EIR), Mitigation Measures 6-12, 6-15, 6-16, 6-17, 6-23, 6-25, 6-28, 6-29, 6-31, 6-35, 6-37, and 6-44 identified in the EIR for road impacts where Riverside Motorsports Park (RMP) is contributing between 5% and 20% for the annual vehicle traffic volumes, one of the following two options must be selected with a method of implementation established prior to approval of the Development Plan:

- a) RMP will construct all road improvements identified in the listed mitigation measures prior to initiation of any operations at the racetrack facility; or
- b) The County will adopt a traffic fee mitigation program that includes the full cost of road improvements identified in the mitigation measures, and a means to collect fees from all benefiting parcels at the time development permits are issued. This program will include a mechanism to ensure RMP pays their fair share of costs prior to initiation of any operations at the racetrack facility.

Supervisor Kelsey states she is against this action and cannot support it as it is not in the best interests of District 4 citing cumulative impacts were not properly addressed and all other impacts outlined.

The Chairman calls for a Vote on the Motion.

Supervisors Pedrozo and Kelsey vote "no". Motion carries.

Ayes: Nelson, Crookham, O'Banion

Noes: Pedrozo, Kelsey

The Chairman states the action taken was an Intended Decision on General Plan Amendment No. GPA03-005 and Zone Change Application No. ZC03-007. The action shall be continued for final decision at the next General Plan Cycle which is scheduled for December 19, 2006 at 10:00 a.m.

The Chairman states consideration of Action on Item 26C from Planning is before the Board as follows:

26C. Contract with Riverside Motorsports Park, LLC Concerning Indemnification for Action on the pending General Plan Amendment No. GPA03-005 and Zone Change Application No. AC03-007.

Supervisor O'Banion moves, seconded by Supervisor Crookham, the Board approve and authorize the Chairman to sign Contract No. 2006306 with Riverside Motorsports Park for Indemnity and Hold Harmless Agreement for project identified as General Plan Amendment No. GPA03-005 and Zone Change Application No. ZC03-007.

Discussion is had on the approval process and indemnity agreements in the planning process.

The Chairman calls for a Vote on the Motion.

Supervisor Kelsey votes “no”. Motion carries.

Ayes: Nelson, Pedrozo, Crookham, O’Banion

Noes: Kelsey

The Chairman states consideration of Action on Item 26D from Planning is before the Board as follows:

26D. Addendum to Contract No. 2004131 with Riverside Motorsports Park, LLC for costs related to the peer review and staff costs of the environmental documents for the Riverside Motorsports Park project.

Supervisor Kelsey moves, to deny the Addendum Contract as recommended.

Motion dies for lack of second.

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

Following further discussion, Supervisor Crookham moves, seconded by Supervisor O’Banion, the Board approve and authorize the Chairman to sign Addendum to Contract No. 2004131 with Riverside Motorsports Park LLC for costs related to the peer review and staff costs of the Environmental Documents for the Riverside Motorsports Park Project.

The Chairman calls for a Vote on the Motion.

Supervisor Kelsey votes “no”. Motion carries.

Ayes: Nelson, Pedrozo, Crookham, O’Banion

Noes: Kelsey

The Chairman states consideration of Action on Item 26E from Planning is before the Board as follows:

26E. Addendum to Contract No. 2004130 with Planning Partners to expand the scope and cost of the contract for peer review of the environmental documents on the Riverside Motorsports Park Project.

Supervisor O’Banion moves, seconded by Supervisor Crookham, the Board approve and authorize the Chairman to sign Addendum to Contract No. 2004130 with Planning Partners to expand the scope and cost of the contract for peer review of the Environmental Documents on the Riverside Motorsports Park Project.

The Chairman calls for a Vote on the Motion.

Supervisor Kelsey votes “no”. Motion carries.

Ayes: Nelson, Pedrozo, Crookham, O’Banion

Noes: Kelsey