

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, DECEMBER 04, 2007
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

CHAIRMAN JOHN PEDROZO.....DISTRICT 1
KATHLEEN M. CROOKHAM.....DISTRICT 2
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

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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

THE BOARD RECESSED AT 9:00 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED STAFF WAS GIVEN DIRECTION

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 (Testimony limited to five minutes per person)

REVIEW BOARD ORDER – SEE PAGE 6

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Sheriff-\$55,000, \$20,000, \$30,000 and \$6,500; Mental Health-\$400,000

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 10)

APPROVED AS RECOMMENDED AYES: ALL

PLANNING - PUBLIC HEARING - PROPOSED ORDINANCE AND POSSIBLE ADOPTION

To consider Development Agreement for Conditional Use Permit Application No. CUP07-005 and Minor Subdivision Application No. MS07-011 submitted by Pacific Holt Corporation. Said application is to comply with Condition #5 of CUP07-005 and MS07-011 and adopt an ordinance thereby entering into a development agreement to protect the County of Merced interests, between Merced County and Pacific Holt Corporation regarding Midstate Pump

Company's agricultural well drilling, pumping and repair facility on 5.0 acres on property located on the southeast corner of Highway 59 and Vasser Road in Merced

REVIEW BOARD ORDER – SEE PAGES 6 THRU 8

PLANNING - PUBLIC HEARING

To consider General Plan Amendment No. GPA07-007 submitted by the County of Merced to amend the General Plan land use designation to Highway Interchange Center-Commercial (H.I.C.) for 5.16 acres based on a zoning change in 1971 from A-1 (General Agricultural) to C-1 (Neighborhood Commercial) and a minor subdivision in 1995 creating 5 parcels ranging from 0.46 acres to 1.2 acres, C-1 Zoning is compatible with H-I-C land use designation on property located on the northeast corner of Gonzaga Road and San Luis Drive in the Santa Nella area. Recommendation - Make intended decision, Cycle scheduled for December 18, 2007 at 10:00 a.m.

REVIEW BOARD ORDER – SEE PAGE 9

REPORTS/BOARD DIRECTION

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

CONSENT CALENDAR (Items #1 - 10)

APPROVED AS RECOMMENDED AYES: ALL

Mental Health

1. Approve and authorize Chairman to sign Amendment to Contract No. 2005232 with California Psychiatric Transitions for Mental Health Rehabilitation Center.

Executive Office

2. Act on Claims for Damages received from Kevin McCullom for Application for Leave to Present Late Claim (2007-1198) as recommended by Risk Manager.
3. Approve Budget Transfer for Advertising in the amount of \$3,143 as recommended by Executive Office.

Human Services Agency

4. Approve Budget Transfer in the amount of \$3,900 as recommended by Executive Office.

Counsel

5. Approve and authorize Chairman to sign Amendment to Contract No. 2006084 with Remy, Thomas, Moose and Manley, LLP for professional consulting services.
6. Set public hearing for December 18, 2007 at 10:00 a.m. to consider the proposed ordinance authorizing adoption of the Master Development Agreement to manage and develop Castle Air Force Base in a joint venture context.

Board Recognition

7. Authorize plaque to Robert and Lois Johnson in celebration of 60th Wedding Anniversary.

8. Authorize Certificate of Recognition to City of Merced in recognition of the Parks and Community Services Rudolph Joseph Merino Park Dedication.
9. Authorize Plaque and Certificate of Recognition to Gustine Middle School for Dedication Ceremony.
10. Authorize Certificate of Recognition to Dos Palos Veterans Memorial Committee in recognition of unveiling of the Dos Palos Veterans Memorial.

REGULAR CALENDAR

BOARD ACTION

MENTAL HEALTH

11. Contract with California Institute for Mental Health for Functional Family Therapy (FFT) Trainings as part of the Mentally Ill Offender Crime Reduction (MIOCR) Grant.
AUTHORIZED CONTRACT NO. 2007275 AS RECOMMENDED AYES: ALL

PLANNING

12. Authorize approval of the 22 Williamson Act Contracts for 2007 as recommended by Assessor and Planning.
REVIEW BOARD ORDER – SEE PAGES 9 AND 10

LIBRARY

13. Adopt Resolution authorizing the Library to participate in the San Joaquin Valley Library System.
ADOPTED RESOLUTION NO. 2007-179 AS RECOMMENDED AYES: ALL
14. Accept the First 5, Merced County donation of books, materials and refurbishing of the children's corner at the Los Banos Library.
APPROVED AS RECOMMENDED AYES: ALL
15. Authorize Merced Main Library and participating library branches to accept canned food donations as payment for current overdue fines during the time period of December 10 through 21, 2007 and authorize the Foods for Fines Program with the collected food to be donated to the local food banks.
APPROVED AS RECOMMENDED AYES: ALL
16. Adopt Resolution to rescind and terminate participation in the 49-99 Cooperative Library System.
ADOPTED RESOLUTION NO. 2007-180 AS RECOMMENDED AYES: ALL

DEPT. OF ADMIN. SERVICES

17. Declare Exhibit A, Vehicles from Merced County, as Surplus Property and authorize its disposal through authorized Contract with Nelson Auctions for auctioneer services and authorize a public auction to be held between December 1, 2007 and February 28, 2008.
APPROVED AS RECOMMENDED AYES: ALL

EXECUTIVE OFFICE

18. Adopt the 2008 Board Meeting Calendar.
APPROVED AS RECOMMENDED AYES: ALL

19. Approve Amendment to the Interim Asset Management Agreement with Federal Merced Associates, Inc.

AUTHORIZED CONTRACT NO. 2007277 AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

20. Merced Cemetery District – Reappointed Sandy Teague until November 25, 2011.

APPROVED AS RECOMMENDED AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

21. Dept. of Administrative Services re: Internet Auction Proceeds for period of July 1, 2007 and September 30, 2007 with net proceeds of \$34,146.17.
22. State Fish and Game Commission re: Copy of continuation notice of proposed regulatory action relative to Sections 353 and 475, Title 14, California Code of Regulations regarding methods authorized for taking big game and methods of take for nongame birds and nongame mammals.
23. State Water Board re: Notice of Board Meeting to be held on December 4, 2007 at 10:00 a.m.

ADOPTED RESOLUTION IN MEMORY OF BILL SELZER AND ADJOURNED MEETING UNTIL DECEMBER 11, 2007 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – DECEMBER 4, 2007

10:00 A.M. SCHEDULED ITEM
2007-12-04 PUBLIC OPPORTUNITY

Grant Wilson, Merced, expresses concern on the Medical Marijuana Dispensaries Ordinance adopted by the Board in May, 2005 and the publication process and states in his opinion the ordinance is in conflict with State law.

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

10:00 A.M. SCHEDULED ITEM
2007-12-04 PLANNING – PUBLIC HEARING – ORDINANCE NO. 1828

The time and date previously set for a public hearing to consider Development Agreement for Conditional Use Permit Application No. CUP07-005 and Minor Subdivision Application No. MS07-011 submitted by Pacific Holt Corporation. Said application is to comply with Condition #5 of CUP07-005 and MS07-011 and adopt an ordinance thereby entering into a development agreement to protect the County of Merced interests, between Merced County and Pacific Holt Corporation regarding Midstate Pump Company's agricultural well drilling, pumping and repair facility on 5.0 acres on property located on the southeast corner of Highway 59 and Vasser Road in Merced.

Development Services Director Robert Lewis reviews the Staff Report.

Planner Dave Gilbert reviews the Powerpoint Presentation.

Supervisor Kelsey states concern with businesses located on property zoned agricultural and questions the relationship and how staff will monitor for compliance.

Director Lewis reviews the process of how a business is monitored stating this is done through the Code Enforcement Division and if a potential problem is reported, an investigation is conducted with Notices of Violation issued, if warranted.

Assistant Planning Director Bill Nicholson advises this particular business is for agricultural wells and if domestic wells are operated, the company will be in violation.

The Chairman asks if there is anyone present wishing to speak. No one speaks.

Following discussion Supervisor O'Banion moves, seconded by Supervisor Nelson, the Board waive further reading of the Proposed Ordinance.

Supervisor Kelsey votes "no" stating she is concerned about the parcelization, her inability to find the environmental exemption and the approval process relying on complaints to monitor.

Motion carries.

Ayes: Pedrozo, Crookham, Nelson, O'Banion

THE PUBLIC IS INVITED TO SPEAK ON ANY ITEM ON THE AGENDA

Noes: Kelsey

Supervisor O'Banion moves, seconded by Supervisor Nelson, based on Findings the Board approve and authorize the Chairman to sign Contract No. 2007273, Development Agreement for Conditional Use Permit No. CUP07-005 and Minor Subdivision Application No. MS07-011, with Pacific Holt Corporation subject to the following Conditions:

Planning & Community Development Department

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Hearing Officer Approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. Conditional Use Permit Application No. CUP07-005 is granted for the construction of the well drilling, pumping, and repair operation, which shall be located, developed, and operated in a manner as described on the approved plot plan, submitted application, and operational statement, consistent with the specific conditions provided in this approval. Minor modifications may be approved by the Planning Director.
3. The applicant shall comply with all applicable County, State and Federal regulations.
4. A Right-to-Farm Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the 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, consistent with Ordinance No. 1213.
5. The applicant/property owner shall enter into a Development Agreement with Merced County to insure the construction of the well drilling, pumping, and repair facility within two years of approval of Conditional Use Permit Application No. CUP07-005. If the facility is not constructed within the two year period, the 5.0 acre and 27.15 acre parcels shall be combined back into one 32.15 acre parcel.
6. Three copies of a landscaping & irrigation plan prepared by a licensed landscape architect or contractor shall be submitted for review and approval prior to issuance of a building permit. Landscaping and irrigation shall be installed per the approved plans prior to final inspection or issuance of a Certificate of Occupancy.
7. The site shall be maintained in a neat and orderly manner at all times.
8. All signs shall be subject to the standards in Chapter 18.42 of the Merced County Zoning Code.
9. No use shall be permitted which creates dust, fumes, odors, vibrations, heat, glare, or electrical disturbances beyond the boundaries of the site.
10. All exterior lighting shall be designed and maintained in a manner so that glare and reflections are contained within the boundaries of the project site, and shall be hooded and directed downward and into the project site. No glare or direct light shall emanate from the project area.

Environmental Health Division

11. The applicant shall submit for approval a plot plan showing the proposed well and septic system location, and the required replacement area for a commercial facility of 300%.
12. Approved nitrogen reducing sewage disposal systems shall be installed, and the facility shall be required to be in a Zone of Benefit for operations and maintenance of these systems.

Department of Public Works/Road Division

13. The property owner shall dedicate to the County of Merced an additional 10 feet of right-of-way along the entire frontage of Vassar Avenue notated on the Parcel Map.
14. The property owner shall obtain an Encroachment Permit from the Department of Public Works/Road Division, pay the required fees, and improve Vassar Avenue fronting proposed Parcel 1. Said improvements shall include widening Vassar Avenue, overlaying existing pavement, constructing a paved rural agricultural driveway approach, installing a county standard street light near the entrance to the property and relocating any utilities in conflict with the proposed improvements. A paved driveway approach shall be constructed for the proposed remainder parcel. All work shall be per the Merced County Public Works Improvement Standards and Specifications. This work shall be accomplished prior to the issuance of the Certificate of Occupancy by the Department of Public Works/Building and Safety Division (Building Permit Office) for any new structure.
15. The property owner shall provide a drainage plan for proposed Parcel 1, prepared by a licensed Civil Engineer per Merced County Drainage Manual and submit to Merced County DPW/Road Division for review and approval prior to the issuance of any building or encroachment permits. The applicant shall pay a review fee of \$500.00 to the DPW/Road Division for said review. The design shall direct storm run-off away from any public maintained roadway.

Public Works/Building and Safety Division

16. A building permit shall be obtained. Property owner/applicant shall submit four set of fully engineered plans and two sets of the engineering calculations. As a commercial business, this building shall be handicap accessible and shall be shown on the engineered plans.
17. The plot plan shall show the increased sized dumpster area and the recycling bins that shall be supplied as stated in the ordinance. This dumpster area shall be completed prior to issuance of any Certificate of Occupancy.

San Joaquin Valley Air Pollution Control District

18. Applicant/property owner shall obtain any applicable permit from the San Joaquin Valley Air Pollution Control District prior to issuance of a building permit.

and adopt Ordinance No. 1828.

Ayes: Pedrozo, Crookham, Nelson, O'Banion

Noes: Kelsey

10:00 A.M. SCHEDULED ITEM

2007-12-04 PLANNING – PUBLIC HEARING

The Clerk announces the Public Hearing submitted by the County of Merced to consider General Plan Amendment No. GPA07-007 to amend the General Plan land use designation to Highway Interchange Center-Commercial (H.I.C.) for 5.16 acres based on a zoning change in 1971 from A-1 (General Agricultural) to C-1 (Neighborhood Commercial) and a minor subdivision in 1995 creating 5 parcels ranging from 0.46 acres to 1.2 acres, C-1 Zoning is compatible with H-I-C land use designation on property located on the northeast corner of Gonzaga Road and San Luis Drive in the Santa Nella area has been continued to December 11, 2007 at 10:00 a.m.

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

ACTION ITEM NO. 12

2007-12-04 PLANNING

The Clerk announces the Williamson Act Contracts for 2007 submitted by Planning is before the Board for consideration.

Upon motion of Supervisor Kelsey, seconded by Supervisor O'Banion, duly carried, the Board approves and authorizes the Chairman to sign the Williamson Act Contracts with the following property owners:

- 2007-001 Live Oaks Land & Cattle LLC
- 2007-003 Santokh Singh Takhar and Amrit Clare Takhar
- 2007-005 Kevin J. & Sandy R. Gonzalves
- 2007-006 Daryll & Diane Quaresma, Trustees
Lance & Michelle Ioppini, Trustees
- 2007-008 John P. Palazzo
- 2007-009 Palazzo Family Trust Agreement, John P. Palazzo, Donald V. Palazzo,
Ralph F. Palazzo
- 2007-010 Kitt, Judy Kahl
- 2007-011 Pamela Friedman
- 2007-012 Frank J. Muratore and Jeanette M. Moratore Family Trust, Frank J. Muratore
and Jeanette M. Muratore Trustees
- 2007-014 Edward Daniel Macedo & Linda PI Macedo
- 2007-016 Frank and Celia Silveira
- 2007-017 Manuel N. Lima, Mary E. Lima
- 2007-018 Jerry and Teresa Furtado
- 2007-022 Gabriel B. Machdo Jr., David Machado
- 2007-023 Wesley Bylsma, Gina Bylsma, William Bylsma, Jolene Bylsma dba
Double B. Dairy, A General Partnership
- 2007-024 Daniel G. Carroll, as successor trustee or the R&I Carroll Living Trust
Daniel G. Carroll, as Trustee of the D&B Carroll Living Trust
Bonnie E. Carroll, as Trustee of the D&B Carroll Living Trust
- 2007-025 Frank J. Silveira and Eduardina Silveira, as Trustees of the Silveira Family
1996 Trust
- 2007-026 Frederick J. Haas and Gail P. Haas as trustees of the Frederick J. Haas and
Gail P. Haas Revocable Living Trust under instrument dated February 5, 1993
- 2007-028 Tony & Clarinda Madruga
- 2007-029 Kevin D. Olds and Patricia J. Olds (husband and wife as joint tenants)
- 2007-030 Bowles Farming Company, Inc.

2007-031 Wildlands, Inc.
Ayes: Pedrozo, Crookham, Nelson, Kelsey, O'Banion