

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, DECEMBER 11, 2007
Closed Session – 8:30 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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INQUIRE WITHIN THE BOARD OF SUPERVISORS OFFICE

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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

8:30 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 -

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): Two Cases

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): Davis v. County of Merced Eastern District Court Case No. 1:07-CV-00180

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL -

SIGNIFICANT EXPOSURE: It is the intention of the Board to meet in Closed Session to consider Significant Exposure pursuant to Government Code Section 54956(b): Two Cases

THE BOARD RECESSED AT 8:30 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED STAFF WAS PROVIDED DIRECTION AS NEEDED

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 7

PRESENTATION: Fire - Reverse 911

REVIEW BOARD ORDER – SEE PAGE 7

10:00 A. M.

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Health - \$273 and \$2,496

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 11)

APPROVED AS RECOMMENDED AYES: ALL

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT - PUBLIC HEARING

To consider the Draft Subsequent Environmental Impact Report for the Redevelopment Plan for Castle Airport Aviation and Development Center Redevelopment Project Recommendation: Intended Decision, and schedule for December 18, 2007 at 10:00 a.m.

REVIEW BOARD ORDER – SEE PAGES 7 AND 8

DEPT. OF WORKFORCE INVESTMENT - PUBLIC HEARING - PROPOSED ORDINANCE AND POSSIBLE ADOPTION

To consider proposed ordinance “An Ordinance Amendment to Update the Fee Structure to the Enterprise Zone/LAMBRA Vouchering Program” (Amends Chapter 5.52 of the Merced County Code and Ordinance No. 1733)

REVIEW BOARD ORDER – SEE PAGE 8

PLANNING - PUBLIC HEARING

To consider Resolution to amend the Agricultural Preserve in conformance with the requirements of the Land Conservation Act of the 1965 (Williamson Act) Section 51200 et. seq. of the California Government Code

REVIEW BOARD ORDER – SEE PAGES 8 AND 9

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

REVIEW BOARD ORDER – SEE PAGES 9 AND 10

REPORTS/BOARD DIRECTION

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

CONSENT CALENDAR (Items #1 - 11)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Approve and authorize Public Works Director to sign Amendment to Contract No. 2007028 with Environmental Remediation, Inc. for Environmental Assessment Services and authorize Public Works to conduct bid opening for the Los Banos Spring Fair Contamination Cleanup.

Planning

2. Approve and authorize Chairman to sign Addendum to Contract No. 2004032 with RRM Design Group for Hilmar Community Plan Update and FEIR extending the completion date.

Health

3. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 2007100 with California Integrated Waste Management Board for Used Oil and Oil Filter Collection Programs.

ADOPTED RESOLUTION NO. 2007-181

Human Services Agency

4. Approve and authorize Chairman to sign Renewal Contract No. 2005257 with District Attorney for Prosecution of CalWORKs and Food Stamp Fraud.
5. Approve and authorize Chairman to sign Renewal Contract No. 2005256 with District Attorney for Investigation of CalWORKs and Food Stamp Fraud.

Executive Office

6. Approve Travel Requests for Child Support Services and Human Services Agency as recommended by Executive Office.
7. Act on Claim for Damages received by Roger Emery (2007-1199) as recommended by Executive Office.

Board Recognition

8. Authorize Certificates of Recognition for individuals selected as recipients of the Agricultural Leadership Award as follows: Outstanding Agriculture Contributions to Merced County to Barbara Burroughs-Agricultural Education, Henry Te Velde-Livestock/Dairy, Jean Okuye-Trees and Vines, Phil and Katie Favier-Field Crops, and Sam Bettencourt, Stanislaus Farm Supply-Agribusiness.
9. Authorize Certificate of Recognition to John Vance in recognition of 40 Years of Service as a Volunteer Firefighter in Livingston.
10. Authorize Certificate of Recognition to Gordon Wilkinson in recognition of 35 Years of Service with Cal Fire.
11. Authorize Certificate of Recognition to Castle Family Health Centers in recognition of Ribbon Cutting of the Behavioral Health Clinic.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

12. Adopt Resolution designating the intersection of Peace Court and Gertrude Avenue, Serenity Place Subdivision, as a Stop Intersection in Winton and authorize the installation on the Peace Court approach.

ADOPTED RESOLUTION NO. 2007-182 AS RECOMMENDED AYES: ALL

13. Adopt Resolution establishing Speed Zones on various County roadways in the Delhi, Ballico and Cressey areas and authorize installation and maintenance of signs.

ADOPTED RESOLUTION NO. 2007-183 AS RECOMMENDED AYES: ALL

SHERIFF

14. Authorize Sheriff to accept a Federal Forfeiture Asset in the amount of \$22,000 to be utilized for Law Enforcement purposes from the Dept. of Justice.

APPROVED AS RECOMMENDED AYES: ALL

TREASURER

15. Resolution delegating Investment Authority to the County Treasurer for the 2008 Calendar Year pursuant to Government Code Section 27000.1 and 53607 and Ordinance No. 1720.

ADOPTED RESOLUTION NO. 2007-184 AS RECOMMENDED AYES: ALL

16. Accept the 2008 Annual Statement of Investment Policy submitted by the Treasurer.

APPROVED AS RECOMMENDED AYES: ALL

17. Resolution providing for the temporary borrowing of funds through the issuance of 2007 Tax and Revenue Anticipation Notes (TRAN) in the name of the Dos Palos Oro Lomas Joint Unified School District in an amount not to exceed \$3 million.

ADOPTED RESOLUTION NO. 2007-185 AS RECOMMENDED AYES: ALL

HEALTH

18. Contract with Fresno County for coordination of public health services due to the January 1, 2008 county boundary line change.

AUTHORIZED CONTRACT NO. 2007278 AS RECOMMENDED AYES: ALL

FIRE

19. Authorize purchase of trailer and two shelters for mobile emergency medical supplies trailer with funds from the 2005 Homeland Security Grant Program; authorize initiation of procurement process and Invitation for Bid for a mobile emergency medical supplies trailer and two shelters and authorize issuance of a Purchase Order.

AUTHORIZED CONTRACT NO. 2007280 AS RECOMMENDED AYES: ALL

PLANNING

20. Authorize the Williamson Act Contracts for 2007 (24 total).

REVIEW BOARD ORDER – SEE PAGE 10

21. Review and consider the Guidance Package for the Brookhaven Development Project General Plan Amendment and EIR and determine whether to adopt the Guidance Package and process the proposed Volta SUDP Expansion and Major Subdivision Application.

REVIEW BOARD ORDER – SEE PAGES 10 AND 11

AUDITOR

22. Approve purchasing 10 refurbished Model 100 Voting Machines from Election Systems and Software as a Sole Source, authorize issuance of a purchase order and approve budget transfer-\$17,000.

AUTHORIZED CONTRACT NO. 2007296 AS RECOMMENDED AYES: ALL

23. Contract with Robert Half, Inc. if they provide an acceptable individual to fill one or more of the following positions: Chief Deputy Auditor-Controller, Assistant Auditor-Controller, Supervising Accountant; approve paying a commission of up to 25% of the annual salary if the position is filled and authorize Human Resources to sign the Contract upon approval of the CEO, Counsel and Auditor understanding a Contract will be sent only when a acceptable individual is selected.

AUTHORIZED CONTRACT NO. 2007281 AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

24. Authorize \$5,000 from Special Board Projects-District Two to be forwarded to Health Department in order to assist Hmong families with support services for their health and medical care needs.

APPROVED AS RECOMMENDED AYES: ALL

25. Authorize \$3,000 of Special Board Project Funds-District One and \$3,000 of Special Board Project Funds-District Four to be forwarded to the Merced County Food Bank.

APPROVED AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AS RECOMMENDED AYES: ALL

26. State Water Resources Control Board re: Notice of Opportunity for public comment on a proposed amendment to the water quality control plan for the Los Angeles Region (Basin Plan) to incorporate site-specific objectives for ammonia in select waterbodies of the Santa Clara River, Los Angeles River and San Gabriel River watersheds.
27. State Wildlife Conservation Board re: Minutes of August 23, 2007. (On file with Clerk)
28. CSAC: Challenge Awards Directory for 2007. (On file with Clerk)

ADOPTED RESOLUTIONS IN MEMORY OF DONALD STOUT, JOE HAVEL III AND VERONICA RODRIGUEZ AND ADJOURNED MEETING UNTIL TUESDAY, DECEMBER 18, 2007 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – DECEMBER 11, 2007

10:00 A.M. SCHEDULED ITEM

2007-12-11 PUBLIC OPPORTUNITY

Maureen McCorry, Planada, reads a statement and advises she received conflicting information from county staff concerning the General Rule Exemption under CEQA and requests the Board direct Planning staff to comply with the Public Records Act request previously filed.

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

10:00 A.M. SCHEDULED ITEM

2007-12-11 PRESENTATION - FIRE

Fire Battalion Chief Tom Wells reviews a powerpoint presentation on the Reverse 911 System. Mr. Wells is presented a County Plaque in recognition of dedicated service to the County of Merced.

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

10:00 A.M. SCHEDULED ITEM

2007-12-11 COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT – PUBLIC HEARING

The time and date previously set for a public hearing to consider the Draft Subsequent Environmental Impact Report for the Redevelopment Plan for Castle Airport Aviation and Development Center Redevelopment Project submitted by Commerce, Aviation and Economic Development.

Commerce, Aviation and Economic Development Director John Fowler reviews the Staff Report.

Public Works-Special Programs Director Robert Smith briefly reviews the history of the project.

Sally Zeff, Jones and Stokes, reviews the powerpoint presentation.

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

Merced County Farm Bureau Executive Director Diana Westmoreland Pedrozo states the Farm Bureau continues to support the development at Castle Airport because of the benefits to the County but again requests the County conduct a water study.

Maureen McCorry, Valley Land Alliance, requests a copy of the Draft Subsequent Environmental Impact Report and states she will be submitting a written request for the Valley Land Alliance to receive Notices in a timely manner.

The Chairman closes the public hearing.

Upon motion of Supervisor Nelson, seconded by Supervisor Crookham, duly carried, the Board, based on Findings, states its intended decision to certify the Subsequent Environmental Impact Report for Redevelopment Plan for the Castle Airport Aviation and Development Center Redevelopment Project and directs staff to return to the Board on December 18, 2007, with a resolution for consideration.

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

10:00 A.M. SCHEDULED ITEM
2007-12-11 DEPARTMENT OF WORKFORCE INVESTMENT – PUBLIC HEARING –
ORDINANCE NO. 1829

The time and date previously set for a public hearing to consider a Proposed Ordinance submitted by the Department of Workforce Investment. The Clerk reads the Ordinance by title only: An Ordinance Amendment to Update the Fee Structure to the Enterprise Zone/LAMBRA Vouchering Program (Amends Chapter 5.52 of the Merced County Code and Ordinance No. 1733).

Department of Workforce Investment Director Andrea Baker reviews the Staff Report.

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

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

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

Maureen McCorry, Valley Land Alliance, asks for clarification on the Draft Environmental Impact Report related to the Enterprise Zone.

County Counsel James Fincher suggests the Commerce, Aviation and Economic Development Director be contacted for clarification and advises this Environmental Impact Report in process is to change the older boundary of the Enterprise Zone.

Diana Westmoreland Pedrozo states business manufacturers have incentives available through the Enterprise Zones to help them come into a community.

Upon motion of Supervisor Crookham, seconded by Supervisor O'Banion, duly carried, the Board adopts Ordinance No. 1829.

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

10:00 A.M. SCHEDULED ITEM
2007-12-11 PLANNING – PUBLIC HEARING

The time and date previously set for a public hearing to consider a resolution to amend the Agricultural Preserve in conformance with the requirements of the Land Conservation Act of the 1965 (Williamson Act) Section 51200 et. seq. of the California Government Code.

Development Services Director Robert Lewis reviews the staff report and states there are 24 Williamson Act contracts, 23 in the new expansion from Fresno County boundary change and one in the Snelling area. He further states Action Item 20 are the Williamson Act Contracts.

Planner Dave Gilbert reviews the powerpoint presentation.

Assistant Planning Director Bill Nicholson reviews the original Agricultural Preserve criteria.

Supervisor O'Banion expresses concern that some property owners may not want to be in the preserve and may want to be included in the City of Dos Palos.

Following discussion, Supervisor Crookham moves, seconded by Supervisor O'Banion, the Board continue the matter until December 18, 2007.

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

Maureen McCorry, Valley Land Alliance, asks for clarification on what the Board will consider at the continued hearing.

Mr. Nicholson states the Board will consider expansion of the preserve to accommodate the Williamson Act contracts from the Fresno County boundary change and reviews the ag preserve map.

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

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

10:00 A.M. SCHEDULED ITEM
2007-12-11 PLANNING – PUBLIC HEARING

The time and date previously for a 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.

Development Services Director Robert Lewis reviews the staff report and advises this matter is clean-up legislation.

Planner Dave Gilbert reviews the powerpoint presentation.

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

Upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board finds the project is exempt from CEQA and states its intent to approve General Plan Amendment No. GPA07-007 as part of Cycle IV General Plan Amendments.

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

ACTION ITEM NO. 20

2007-12-11 PLANNING

The Board continues Action Item No. 20, Williamson Act Contracts for 2007, to the December 18, 2007 Board Meeting, for consideration subsequent to Board Action on the Agricultural Preserve.

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

ACTION ITEM NO. 21

2007-12-11 PLANNING

The Clerk announces the Guidance Package for the Brookhaven Development Project General Plan Amendment and Environmental Impact Report are before the Board for consideration.

Planner James Holland reviews the Staff Report and powerpoint presentation.

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

Ingomar Packing Director of Operations Tim Durham states concern with urban encroachment on the three existing plants in the proposed project area. He states concern with cars and light trucks competing with the numerous large trucks that travel to and from the plants and increase air pollution. He requests the Board reject the Guidance Package and support agriculture in the Volta area.

Frank Dehart, Merced, states concern with adequate water supply for the proposed development and questions what would occur should the water supply be placed in jeopardy.

Planner Holland states the water supply would be addressed through the Environmental Impact Report and Plan process.

Tom Grave, Merced, refers to a letter from State Department of Fish and Game advising he believes this project should be considered through the General Plan Update process and states the cumulative impacts need to be reviewed.

Planner Holland confirms the Fish and Game response letter was received and overall that agency is not in support of the proposal since the project is in conflict with long-term preservation of environmental resources in the area.

Justin Sloan, State Department of Fish and Game, comments on the letter from the State advising the concern is about the expansion of the Specific Urban Development Plan and residential development and the negative effects on the surrounding area.

Merced County Farm Bureau Executive Director Diana Westmoreland Pedrozo submits a letter from Grasslands Water District, Ingomar Packing and the Merced County Farm Bureau dated August 17, 2007, and states the community of Volta has requested to be designated as an Ag Center for the past twenty years. She further states this project should go through the General Plan Update process and cumulative impact studies need to be done.

Engineer John Hansen, Turlock, speaks in favor of the project stating a wastewater treatment plant with excess capacity and new wells will serve existing homes in the area that are currently on septic tanks.

Maureen McCorry, Valley Land Alliance, submits and reviews written comments against the project.

County Counsel James Fincher states for the record, in addition to documents stated by Planner Holland, yesterday a letter dated December 7, 2007, from Grassland Water District was submitted to the Board.

Expansion of city limits and the need to expand when there are areas within the city limits that could still be developed are discussed.

Following a lengthy discussion, Supervisor O'Banion moves, seconded by Supervisor Nelson, the Board accept the Brookhaven Development Guidance Package (Major Subdivision Application No. MAS 06-016) with the Volta Specific Urban Development Plan expansion to go forward.

Supervisor Kelsey states she cannot support the motion and is concerned with the following: limited law enforcement service to urban areas, long-term impacts on agriculture and wetlands, the impacts to the existing plants that may cause them to move out of the area, consideration of the General Plan Update process and whether the citizens of Volta would be able to retain a Agriculture Service Center status if this package is accepted.

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

Supervisors Pedrozo, Crookham and Kelsey vote "no". Motion fails.

No action taken.

Ayes: Nelson, O'Banion

Noes: Pedrozo, Crookham, Kelsey