

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, APRIL 01, 2008
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
CHAIRMAN 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

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TESTIMONY LIMITED TO FIVE MINUTES PER PERSON
THE PUBLIC IS INVITED TO SPEAK ON ANY ITEM ON THE AGENDA

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

It is the intention of the Board to meet in Closed Session concerning a Conference with Real Property Negotiator(s) Paul Fillebrown, Director-Public Works pursuant to Government Code Section 54956.8 as follows - Property: 401 East 15th Street, Merced, CA

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Government Code Section 54956.9(b): Three Cases

THE BOARD RECESSED AT 9:00 A.M. AND RECONVENED AT 10:00 A.M. WITH SUPERVISOR NELSON NOT PRESENT AND THE CHAIRMAN ADVISED THERE WAS NOTHING TO REPORT

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

REVIEW BOARD ORDER – SEE PAGE 9

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 9

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Library-\$1,027, \$4,885 and \$3,544 and Sheriff-\$25,000 and \$65,500

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 24)

APPROVED AS RECOMMENDED AYES: ALL

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10:00 A.M.

PLANNING - PUBLIC HEARING

To consider an Appeal of the Planning Commission denial of Appeal No. APEA08-001 to Convey and Combine Minor Subdivision Application No. 07-053. Applicant/Property Owner, Frank Baba and Appellant, Maureen McCorry-Valley Land Alliance. Said Application is to create a 5.0 acre home site parcel from a 20.30 acre parcel, and to convey and combine the remaining 15.30 acres with an adjacent 20.0 acre parcel, creating a new 35.30 acre parcel under the same ownership. The project site is located on the southwest corner of Linwood Road and Pepper Street in Ballico

REVIEW BOARD ORDER – SEE PAGE 10

REPORTS/BOARD DIRECTION

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

CONSENT CALENDAR (Items #1 - 24)

APPROVED AS RECOMMENDED AYES: 1, 2, 3, 5 NOT PRESENT: 4

Public Works

1. Adopt Resolution designating the intersection of Ashby Road and Buhach Road in Atwater as an All-way Stop intersection and authorize installation of signs on the Ashby Road approaches to the intersection.

ADOPTED RESOLUTION NO. 2008-36

2. Adopt Resolution designating the intersection of Buhach Road and S.P. Avenue (Atwater area) in Atwater as an All-Way Stop Intersection and authorize installation of signs on the Buhach Road approaches to the intersection.

ADOPTED RESOLUTION NO. 2008-37

3. Approve and authorize Public Works Director to sign Amendment to Contract No. 2007009 (Change Order 2) with The Source Group, Inc. for Phase II Investigation Report and Feasibility Study preparation for petroleum contaminated soil and groundwater at the Gustine Road Division Yard.

4. Authorize Certificate recognizing Hayden Seitz for Lake Yosemite County Park volunteer work.

Ag. Commissioner

5. Approve and authorize Chairman to sign Amendment to Contract No. 2006187 with Calif. Dept. of Food and Agriculture (CDFA) for Bee Colony Inspections for Red Imported Fire Ant.

6. Approve and authorize Chairman to sign Amendment to Contract No.,. 2004260 with Calif. Dept. of Food and Agriculture (CDFA) for Egg Quality Control Inspections and adopt Resolution.

ADOPTED RESOLUTION NO. 2008-38

Health

7. Approve and authorize Chairman to sign the Child Health and Disability Prevention (CHDP) Program, Foster Care Administrative and the Health Care Program for Children in Foster

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Care (HCPCFC) and the California Children's Services (CCS) Program, Plan and Budgets for FY 07-08 with Calif. Dept. of Healthcare Services with final contract to come back to the Board for approval.

8. Proclaim the week of April 7 through 13, 2008 as National Public Health Week in Merced County.

Commerce, Aviation and Economic Development

9. Approve and authorize Chairman to sign Renewal Contract No. 2007033 with the Assessor for lease of a portion of Building 1230 (approximately 114 square feet) for records storage.

Human Services Agency

10. Approve and authorize Chairman to sign Renewal Contract No. 2004345 with Sheriff Dept. (Interdepartmental Agreement) for Social Worker Safety and Support.
11. Approve and authorize Chairman to sign Amendment to Contract No. 2003090 with Mental Health (Interdepartmental Agreement) for Alcohol and Drug Counseling Services.
12. Approve and authorize Chairman to sign Amendment to Contract No. 2006338 with Sierra Vista Child and Family Services for Transitional Planning Conferences.
13. Approve and authorize Chairman to sign Amendment to Contract No. 2006339 with Sierra Vista Child and Family Services for Family Group Decision Making Conferences.
14. Approve and authorize Chairman to sign Renewal Contract No. 2007247 with Total Self Insight Inc. for Domestic Violence Services.
15. Approve and authorize Chairman to sign Amendment to Contract No. 2007181 with Valley Caregiver Resource Center for National Family Caregiver Support Program.

Mental Health

16. Approve and authorize Chairman to sign Renewal Contract No. 2004103 with Human Services Agency (Interdepartmental Agreement) for transportation of incoming and outgoing interdepartmental mail.
17. Approve and authorize Chairman to sign Amendment to Contract No. 2008042 with Shemoil's Investments Developments for lease of office space at 3090 M Street, Merced correcting the address of the lease property and the end dates in the contract.
18. Set public hearing for April 29, 2008 at 10:00 a.m. to consider Proposed Ordinance amending Mental Health Services Fees for 2007-2008.
19. Adopt Resolution authorizing amendment to Contract No. 2004110 with State Dept. of Alcohol and Drug Programs for Negotiated Net Amount and Drug Medi-Cal Contract services.

ADOPTED RESOLUTION NO. 2008-39

Executive Office

20. Act on Claims for Damages submitted by Robert H. Meyers (2008-041); Roberto Ceja Del Toro (2008-037); Eric Lopez (2008-035); AMSTEAD Industries, Inc. (2008-039); Baltimore Aircoil Company (2008-040); Merck & Company (2008-038); Jesus Miramontes (2008-046); James D. Richardson (2008-044); John F. Richardson (2008-043) and Mary E. Richardson (2008-042) as recommended by Risk Management.

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21. Approve Travel Request submitted by Retirement as recommended by Executive Office.

Board Recognition

22. Authorize Resolution in honor of Delta Sigma Theta Sorority, Inc. Founders Day Celebration set for February 29 through March 1, 2008.
23. Authorize Certificates of Recognition to Gustine Chamber of Commerce Awards as follows: Adellyne M. DeGregori, President's Choice Award; Depot Garage, Business of the Year; Pam Chavez, Past President; Florie and John Nunes, Agriculturalist of the Year; Louie Spinazze, Citizen of the Year; Patsy and David Freitas, Lowell N. Peters Award; and Joe DeGregori, President's Choice Award.
24. Authorize Resolution of Commendation to John Romero for years of service to the County of Merced.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

25. Contract Amendment with Rogers Enterprises to operate a paddle boat concession at Lake Yosemite Park. (4/5 Vote Required)
AUTHORIZED CONTRACT NO. 2005043 AS RECOMMENDED AYES: ALL
26. Approve Budget Transfer of \$22,627 and authorize payment to Planada Unified School District as the final step necessary to transfer the approved Parkland Dedication Funds in connection with the Community Facilities Grant Application. (4/5 Vote Required)
APPROVED AS RECOMMENDED AYES: ALL
27. Authorize the award of the contract for the Site Works for the Castle Airport Passenger Terminal Building provided the lowest responsive bid is within the revised budget; authorize the Chairman to sign Contract due to time constraints with Public Works to return to the Board with an informational item disclosing all actions taken and approve the necessary budget transfer as recommended by Commerce, Aviation and Economic Development.
REVIEW BOARD ORDER SEE PAGE 10

DEPT. OF WORKFORCE INVESTMENT

28. PULLED
29. Accept State Employment Development Department-California Gang Reduction, Intervention and Prevention (CalGRIP) Initiative Grant to implement strategies for youth between the ages of 14-24 involved in gangs or at risk of gang involvement in the amount of \$400,000 and authorize the Director to return to the Board for final award and signing of documents.
APPROVED AS RECOMMENDED AYES: ALL
30. Authorize Application to U.S. Dept. of Labor (DOL) for Science, Technology, Engineering and Mathematics (STEM) Grant Funds which will coordinate with existing and potential biotech businesses to build a skilled workforce in the Northern San Joaquin Valley and direct WIB Director to return to the Board, if awarded for final approval.
APPROVED AS RECOMMENDED AYES: ALL

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DISTRICT ATTORNEY

31. Accept the District Attorney's Real Estate Fraud Report in accordance with GC 27388 and authorize the Auditor to transfer administrative costs to the County Recorder and transfer the remaining balance of the fees collected to the District Attorney's Office.

APPROVED AS RECOMMENDED AYES: ALL

HEALTH

32. Authorize preparation and release of Request for Proposal (RFP) to provide inmate medical/health services for inmates in the custody of the Sheriff and detainees in Juvenile Hall as outlined in Scope of Work to be returned to the Board for final approval and award.

APPROVED AS RECOMMENDED AYES: ALL

HUMAN SERVICES AGENCY

33. Contract No. 2007270 with A Woman's Place for Domestic Violence Shelter Services and approve the necessary budget transfer. (4/5 Vote Required)

REVIEW BOARD ORDER – SEE PAGE 11

SPRING FAIR

34. Contract with Dutch Holland Racing Promotions for Destruction Derby fair event.

REVIEW BOARD ORDER – SEE PAGE 11

35. Contract with Merced County Livestock Association for fair event services.

AUTHORIZED CONTRACT NO. 2007057 AS RECOMMENDED AYES: ALL

SHERIFF

36. Contract with Merced County Spring Fair-Los Banos for police protection and security at the County Fair.

AUTHORIZED CONTRACT NO. 2008062 AS RECOMMENDED AYES: ALL

RETIREMENT

37. Adopt recommended Retirement Contribution and Interest Rates effective for the July 13, 2008 Payroll setting Recommended Rates at: General: Tier 1-8.95%, Tier 2-7.42% and Safety: Tier 1-10.56% and Tier 2-7.28%.

APPROVED AS RECOMMENDED AYES: ALL

PROBATION

38. Accept the new Juvenile Justice Facility Needs Assessment and allow Probation to investigate possible funding through the statewide juvenile construction grants as authorized by SB 81 and AB 191.

APPROVED AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

39. Advisory Board on Alcohol and Other Drug Problems – Appointed Marissa Chavez, as Youth Representative, until September 2, 2010.

APPROVED AS RECOMMENDED AYES: ALL

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40. Ad Hoc Committee on Juvenile Offender Resource Options – Appointed Frank Whitman, Mental Health Director Representative and Judy Kennedy, Community Based Drug/Alcohol Program Representative, to serve for the term at the Pleasure of the Board.

APPROVED AS RECOMMENDED AYES: ALL

41. First 5 Merced County – Reappointed Iantha Thompson, District Two Representative, until March 23, 2011.

APPROVED AS RECOMMENDED AYES: ALL

AUDITOR

42. Approve raising the outstanding principal on the Merced County Spring Fair Loan to \$150,000 which includes the current outstanding loan of \$73,344 (net increase of \$76,656) which will be repaid as previously approved over the remaining three year period, the outstanding balance on the loan will be paid down to no more than \$50,000 by the next Fair time, interest is to be repaid at the Treasury earnings rate.

APPROVED AS RECOMMENDED AYES: ALL

43. Authorize establishment of a non-revolving line of credit with Wells Fargo Bank-Los Banos, to provide payment to sellers of the Jr. Livestock Auction upon approval of the CEO, Counsel and Auditor; these funds to be repaid as payments are received from the buyers of the Jr. Livestock Auction, the loan will be for a maximum of \$550,000, will mature 10-31-08, bear an interest rate and loan cost to be determined and authorize the Auditor to sign the loan documents upon loan approval and issuance of a Change Fund in the amount of \$8,000 for operation of the Fair with the Auditor to report back to the Board on April 29, 2008 and adopt Resolution.

ADOPTED RESOLUTION NO. 2008-40 AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

44. Authorize Special Board Project Funds-District Four in the amount of \$1,500 to be forwarded to the Delhi Community Unity Group in support of County Informational Night.

APPROVED AS RECOMMENDED AYES: ALL

EXECUTIVE OFFICE

45. Adopt Resolution opposing Proposition 98 and authorize letter in opposition to Proposition 98.

REVIEW BOARD ORDER – SEE PAGES 11 AND 12

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

46. Commerce, Aviation and Economic Development Notification of PEG capital fee implementation beginning April 1, 2008.
47. State Fish and Game Commission re: Copy of proposed emergency regulatory action relating to ocean salmon sport fishing. (On file with Clerk)
48. State Water Resources Control Board re: Notice of Board Member Quorum on April 2, 2008.

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49. State Water Resources Control Board re: Notice of Staff Workshops and Public Hearing - National Pollutant Discharge Elimination System Proposed Draft General Permit for Discharge of Storm Water Associated with Construction Activities.
50. State Water Board re: Board Meeting and Hearing set for March 31 and April 1, 2008.
51. U.S. Environmental Protection Agency re: Region 9 March 2008, Upcoming Funding for San Francisco Bay and California Coastal Watersheds.
52. SafetyBeltSafe U.S.A. re: Safety Seat Checkup Week set for April 20 -26, 2008. (Copies on file with Clerk)

ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF HARRIET ABEL, BEULAH DOUGLAS AND ASA WILLMON UNTIL TUESDAY, APRIL 29, 2008 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – APRIL 1, 2008

10:00 A.M. ADDED AGENDA ITEM

2008-04-01 EXECUTIVE OFFICE

The Clerk advises subsequent to posting of the Agenda for the Board Meeting of April 1, 2008, the need for action arose for out-of-state travel.

Upon motion of Supervisor O'Banion, seconded by Supervisor Nelson, duly carried, the Board finds the need to take action arose subsequent to posting of the April 1, 2008, Agenda and places the item on the agenda for consideration.

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

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board approves the Travel Request submitted by the District Attorney's Office and the Budget Transfer needed to cover this cost as recommended by the Executive Office.

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

10:00 A.M. SCHEDULED ITEM

2008-04-01 PUBLIC OPPORTUNITY

Director of Public Health John Volanti briefly reviews the NACo prescription drug program stating this is the kick off day for participation and distributes the prescription cards which will be available at County facilities for all Merced County residents.

Judith Hartman, Merced County Arts Council Board of Directors member, introduces Arts Council Executive Director Stacie Santa. Ms. Santa distributes invitations and posters for the 25th Anniversary Black and White Ball on April 19, 2008 and invites the community.

Sam Matthews, Merced, speaks regarding SB 420 and Proposition 215 and speaks in favor of Medical Marijuana Dispensaries stating this could provide additional revenue for the County.

Grant Wilson, Merced, reviews his discussions with CEO Tatum advising he received a letter regarding the Medical Marijuana Dispensary issue, provides his response letter copy stating he believes rights and that the Brown Act was violated in 2005 and 2007.

Maureen McCorry, Valley Land Alliance and general public member, submits correspondence dated February 22, 2008, February 27, 2008, March 3, 2008 and March 4, 2008 and asks the County to follow the Public Records Act guidelines and provide information that has previously been requested.

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

10:00 A.M. SCHEDULED ITEM
2008-04-01 PLANNING –PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal of the Planning Commission denial of Appeal No. APEA08-001 to Convey and Combine Minor Subdivision Application No. 07-053. Applicant/Property Owner, Frank Baba and Appellant, Maureen McCorry-Valley Land Alliance. Said Application is to create a 5.0 acre home site parcel from a 20.30 acre parcel, and to convey and combine the remaining 15.30 acres with an adjacent 20.0 acre parcel, creating a new 35.30 acre parcel under the same ownership on property located on the southwest corner of Linwood Road and Pepper Street in Ballico.

Development Services Director Robert Lewis reads a letter from Duane Andrews, Engineer for the applicant, advising Mr. Baba is withdrawing his application and requesting refund of fees. Mr. Lewis recommends the fees paid by Mr. Baba and the Appeal Fee paid by Valley Land Alliance be refunded.

The Board discusses refund of fees.

Following discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board accepts the withdrawal and cancels the public hearing for the Appeal to Planning Commission denial of Appeal No. APEA08-001 to Convey and Combine Minor Subdivision Application No. 07-053 and approves the refund to Mr. Baba for fees paid to the Planning Department and approves refund of Appeal Fee paid by Valley Land Alliance to the Board of Supervisors.

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

ACTION ITEM NO. 27
2008-04-01 PUBLIC WORKS

The Clerk announces the site works for the Castle Airport Passenger Terminal Building is before the Board for consideration.

Commerce Aviation and Economic Development Director John Fowler states bids for the Castle Airport Passenger Terminal Building were opened yesterday and exceeded the budgeted amount, requests the Budget Transfer be increased to \$275,000 and recommends the Contract be awarded to Lockwood General Engineering, Inc.

Upon motion of Supervisor Nelson, seconded by Supervisor Pedrozo, duly carried, the Board awards the Contract to Lockwood Engineering, Inc. and authorizes the Chairman to sign Contract No. 2008061, approves the modified Budget Transfer requested in the amount of \$275,000 for the Castle Airport Passenger Terminal Building as recommended.

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

ACTION ITEM NO. 33

2008-04-01 HUMAN SERVICES AGENCY

The Clerk announces a contract for domestic violence shelter services is before the Board for consideration.

County Executive Officer Dee Tatum states funding is available for the contract amendment in Presley funds and can be used by domestic violence providers only.

Following discussion, Human Services Agency Deputy Director Scott Pettygrove states the County received approximately \$14,000 more in Presley funds than anticipated and the funds will be held by the County and retained until a domestic violence provider is identified if the current provider is no longer available.

Upon motion of Supervisor Kelsey, seconded by Supervisor O'Banion, duly carried, the Board approves and authorizes the Chairman to sign Amendment to Contract No. 2007270 with A Woman's Place for Domestic Violence Shelter services and approves the budget transfer-\$10,733. (4/5 Vote Required)

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

ACTION ITEM NO. 34

2008-04-01 SPRING FAIR

The Clerk announces a contract for fair event production is before the Board for consideration.

County Counsel James Fincher states the vendor for the fair event production has obtained a \$3 million insurance policy but County Counsel has not yet had the opportunity to review the documents and requests the recommendation be amended to authorize the Chairman to sign the contract after review of documents by County Counsel.

Following discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board approves and authorizes the Chairman to sign Renewal Contract No. 2007056 with Dutch Holland Racing Promotions to provide event production services subject to review by County Counsel.

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

ACTION ITEM NO. 45

2008-04-01 EXECUTIVE OFFICE

The Clerk announces a Resolution opposing Proposition 98 is before the Board for consideration.

Supervisor Nelson moves, seconded by Supervisor O'Banion, the Board oppose Proposition 98, authorize the Chairman to sign a letter in opposition to Proposition 98, send the letter and resolution to the "No on 98" Committee and adopt Resolution No. 2008-40A.

Supervisor Kelsey states she is unable to support the proposed Resolution since she supports Proposition 98.

The Board discusses the ballot measure, potential impact on public water projects, Merced County Farm Bureau correspondence, various water district concerns and Proposition 98 and Proposition 99 impacts.

Supervisor Pedrozo states he cannot support the Resolution because Proposition 98 will help protect family farmer property and he states agreement with Supervisor Kelsey's comments.

The Chairman calls for a vote on the Motion.

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

Ayes: Crookham, Nelson, O'Banion

Noes: Pedrozo and Kelsey