



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, SEPTEMBER 02, 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.*

Any material related to an item on this Agenda submitted to the Clerk after distribution of the Agenda packet is available for public inspection in the Office of the Clerk of the Board

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

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

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): San Joaquin Raptor v. County of Merced (RMP), Merced County Superior Court Case No. 150013 & 150014 (Consolidated) and San Joaquin Raptor Rescue Center v. County of Merced, Merced County Superior Court Case No. CU151468

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Government Code Section 54957: PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Title: County Counsel

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Government Code Section 54957.6 concerning a Conference with County of Merced Staff Negotiators concerning negotiations with American Federation of State, County and Municipal Employees (AFSCME), Units 4, 5, 6 and 8; Independent Employees of Merced County (IEMC), Unit 3; Merced County Lawyers Association, Unit 7; Merced County Sheriff Employee Association (MCSEA), Unit 2; Merced County Law Enforcement Sergeants, Unit P; Deputy Sheriff Association, Unit 10 and Non-Safety Corrections, Unit 12

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

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:00 A. M.

PLEDGE OF ALLEGIANCE

10:00 A. M.

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 11

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 20)

APPROVED AS RECOMMENDED AYES: ALL

PLANNING - PUBLIC HEARING

To consider and certify the Final Environmental Impact Report for the Re-Establishment of the Merced County Enterprise Zone in the Cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos and Merced and certain unincorporated portions of Merced County

RECOMMENDATION: Certify the Final EIR for the Re-Establishment of the Merced County Enterprise Zone in the Cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos and Merced and certain unincorporated portions of Merced County was completed in Compliance with the requirements of CEQA

REVIEW BOARD ORDER – SEE PAGES 11 AND 12

PLANNING - PUBLIC HEARING

To consider Certification of Final Environmental Impact Report (FEIR) for the Villages of Laguna San Luis Community Plan as adequate for compliance with CEQA, adopt the Mitigation Monitoring and Reporting Program, Environmental Findings of Fact and the Statement of Overriding Considerations and make Intended Decision to approve and adopt Community Plan No. CP07-002, Parallel Zone Change No. ZC07-006, Agricultural Preserve Withdrawal Amendment No. AP07-001

RECOMMENDATION: Certify the Final EIR for the Villages of Laguna San Luis Community Plan as adequate for compliance with CEQA, adopt the Mitigation Monitoring and Reporting Program, Environmental Findings of Fact and Statement of Overriding Considerations; and Make Intended Decision to adopt the Villages of Laguna San Luis Community Plan, approve Zone Change No. ZC07-006 and the Agricultural Preserve Withdrawal Amendment No. AP07-001 based on the Nine Findings in Staff Report

REVIEW BOARD ORDER – SEE PAGES 12 THROUGH 14

PLANNING - PUBLIC HEARING - PROPOSED ORDINANCE AND POSSIBLE ADOPTION

To consider 2008 Cycle II General Plan Amendment: Villages of Laguna San Luis Community Plan CP07-002, Zone Change ZC07-006 and Agricultural Preserve Withdrawal Amendment No. APA07-001,

RECOMMENDATION: Adopt Villages of Laguna San Luis Community Plan CP07-002, approve Zone Change ZC07-006 and Agricultural Preserve Withdrawal Amendment No. APA07-001 and adopt the Related Zone Change Ordinance and General Plan Amendment Resolution

REVIEW BOARD ORDER – SEE PAGES 14 AND 15

REPORTS/BOARD DIRECTION

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

CONSENT CALENDAR (Items #1 - 20)

APPROVED AS RECOMMENDED

AYES: ALL

Mental Health

1. Approve and authorize Chairman to sign Amendment to Contract No. 2008091 with Sylmar Health & Rehabilitation Center for State Licensed Mental Health Rehabilitation Center.
2. Approve and authorize Chairman to sign Amendment to Contract No. 2004110 with State Dept. of Alcohol and Drug Programs for Negotiated Net Amount and Drug Medi-Cal services and adopt Resolution.

ADOPTED RESOLUTION NO. 2008-172

3. Approve and authorize Chairman to sign Renewal Contract No. 2006176 with Turning Point Community Services for Community Assistance Recovery Enterprise (CARE) Program.
4. Approve and authorize Chairman to sign Renewal Contract No. 2008069 with San Benito County Behavioral Health Services for Inpatient Services at Marie Green Psychiatric Health Facility.

Human Services Agency

5. Approve and authorize Chairman to sign Amendment to Contract No. 2006110 with Merced Lao Family Community, Inc. for Refugee Employment and Social Services Program for period of October 1, 2007 through September 30, 2008.
6. Authorize preparation and release of Request for Proposal for Refugee Employment Social Services (RESS) in conjunction with Dept. of Administrative Services and select the most responsive provider for such services and return to the Board for award of Contract.
7. Authorize Application to the National Institute of Health-Office of Behavioral and Social Sciences Research through the grants.gov management system for Grant in the amount of \$275,000 targeted to specific issues faced by medically underserved citizens in Merced County.

Planning

8. Approve and authorize Chairman to sign Amendment to Contract No. 2007229 with Ricci Thoreson for consultant services provided by PBS&J for the preparation of an Initial Study for Conditional Use Permit No. CUP06-014, Thoreson Sand Mine Project.
9. Authorize cancellation of Request for Proposal #6259 for Grant Writing and authorize re-issuance of Request for Proposal for Grant Writing, Administration and Implementation of the 2007 Home Grant using the State Vendor List as recommended.

District Attorney

10. Approve and authorize Chairman to sign Renewal Contract No. 2006233 with California Dept. of Insurance for Worker's Compensation Insurance Fraud Program for FY 2008/09 and adopt Resolution.

ADOPTED RESOLUTION NO. 2008-173

11. Approve and authorize Chairman to sign Renewal Contract No. 2006234 with California Dept. of Insurance for Automobile Insurance Fraud Program for FY 2008/09 and adopt Resolution.

ADOPTED RESOLUTION NO. 2008-174

Treasurer

12. Accept the Quarterly Investment Report for the Period Ending June 30, 2008.

Executive Office

13. Approve Travel Requests for Castle, Aviation and Economic Development and Human Services Agency as recommended by Executive Office.
14. Approve and authorize Chairman to sign Renewal Contract No. 2003282 with Superior Court of California, County of Merced for services and reimbursements for Court Operations and direct Staff to begin discussions with the Court for Renewal Contract.

Board Recognition

15. Authorize Plaque in recognition of Larry Parrish's 40 years of Government Service.
16. Authorize Certificate of Recognition to 9-Iron Practice Center for Grand Opening and Ribbon Cutting.
17. Authorize Certificates of Recognition to American Legion Post 83 2008 as follows: Commander Joe Cortez, 1st Vice Commander; Don Lee, 2nd Vice Commander; Raul Rodriguez, 3rd Vice Commander; Richard Ruiz, Adjutant; Bill Dacus, Finance Officer; Al Torres, Assistant Finance Officer; Denise Murphy, Chaplain; Bob Martratt, Judge Advocate; Ross Simonet, Service Officer; Manuel Salles, Historian; Bob Matthews, Sergeant-At-Arms; Nick Koumarios, Executive Committee; Joe Vasquez and Ernie Amezcua and Legionnaire of the Year Carlos Rameriz.
18. Authorize Certificate of Recognition to Play It Again Sports for their Grand Opening Celebration.
19. Authorize Certificate of Recognition to Steiner Development Inc. for their Grand Opening Event at Fahrens Park Plaza.
20. Authorize Certificate of Recognition to San Joaquin Drug for their 8th Year Anniversary and Ribbon Cutting.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

21. Authorize issuance of Request for Proposal for Mobile Food Vending Concessions at Courthouse Park and 23rd Street Parking Lot; authorize Chairman to sign Contract with Concession at Courthouse Park and 23rd Street Parking Lot after review and approval by Counsel and direct Public Works to return to the Board with information on Contract Award as Informational Item.

AUTHORIZED CONTRACT NO. 2008211 AS RECOMMENDED AYES: ALL

22. Approve Plans and Specifications for Reconstruction of Bloss Avenue between Griffith Avenue and Turlock Irrigation District Lateral #7 and direct Public Works to return to the Board with information on Contract Award as Informational Item.

AUTHORIZED CONTRACT NO. 2008212 AS RECOMMENDED AYES: ALL

23. Approve Plans and Specifications for Ashby Road/Buhach Road Irrigation Improvements Projects and direct Public Works to return to the Board with information on Contract Award as Informational Item.

PULLED FROM THE AGENDA – NO ACTION IS TAKEN

24. Resolution authorizing Chairman to sign Freeway Maintenance Agreement with Caltrans for Westside Boulevard Overpass over State Route 99.

AUTHORIZED CONTRACT NO. 2008207 AND ADOPTED RESOLUTION NO. 2008-175 AS RECOMMENDED AYES: ALL

25. Resolution authorizing Chairman to sign Freeway Maintenance Agreement with Caltrans for the Sultana Drive Overpass over State Route 99.

AUTHORIZED CONTRACT NO. 2008208 AND ADOPTED RESOLUTION NO. 2008-176 AS RECOMMENDED AYES: ALL

26. Contract with PBS&J for CEQA documentation necessary to construct a 100 bed men's homeless shelter on County-owned property.

AUTHORIZED CONTRACT NO. 2008209 AS RECOMMENDED AYES: ALL

27. Approve Termination of Master Lease Agreement with Sun Trust Leasing Corporation executed in General Services and authorize Contract with Sun Trust Equipment Finance and Leasing Corporation to finance the design and construction of Energy and Water Conservation Measures by Siemens Building Technologies at twenty-two (22) County facilities after review and approval by Counsel, CEO, Auditor and Public Works and authorize signing any other related document required of the agreement.

REVIEW BOARD ORDER – SEE PAGE 15

MENTAL HEALTH

28. Contract with Golden Living Center-Fresno Behavioral Care for services provided to Mental Health consumers.

AUTHORIZED CONTRACT NO. 2008213 AS RECOMMENDED AYES: ALL

29. Contract with Los Banos Drug for Pharmacy services for mental health clients in Los Banos.

AUTHORIZED CONTRACT NO. 2008214 AS RECOMMENDED AYES: ALL

30. Contract with Victor Treatment Center for Residential Treatment Facility for Youth, Ages Seven to Twenty.

AUTHORIZED CONTRACT NO. 2008215 AS RECOMMENDED AYES: ALL

HUMAN SERVICES AGENCY

31. Contract with Community Foundation of Merced County for Foster Youth Recreational Activities Funding.

AUTHORIZED CONTRACT NO. 2008216 AS RECOMMENDED AYES: ALL

HEALTH

32. Contract with Rick's Expansion Educational Services to provide HIV Education and Prevention and Ryan White Outreach Activities for FY 2008/09.

AUTHORIZED CONTRACT NO. 2008217 AS RECOMMENDED AYES: ALL

33. Relieve Health Department of Liability for Fixed Assets #50416-Personal Computer and #51025-LCD Projector DPL SVGA by allowing the Auditor's Office to remove the items from the Health Department Inventory.

APPROVED AS RECOMMENDED AYES: ALL

PLANNING

34. Contract with A.V. Thomas Produce Company, applicant and property owner, for the reimbursement of consultant costs provided by Michael Brandman Associates for preparation of an Initial Study/Mitigated Negative Declaration for Administrative Application No. AA08-030 (sweet potato warehouse in Atwater).

AUTHORIZED CONTRACT NO. 2008218 AS RECOMMENDED AYES: ALL

35. Set Public Hearing for September 16, 2008 at 10:00 a.m. to consider Setting Aside the CEQA Determination and Project approval of Conditional Use Permit No. CUP08-002 (Micro-Brewery, Brett Tate).

APPROVED AS RECOMMENDED AYES: ALL

FIRE

36. Contract with Office of Traffic Safety accepting Grant in the amount of \$216,540 for purchase of Vehicle Extrication Improvements and adopt Resolution.

AUTHORIZED CONTRACT NO. 2008225 AND ADOPTED RESOLUTION NO. 2008-177 AS RECOMMENDED AYES: ALL

DISTRICT ATTORNEY

37. Contract with Governor's Office of Emergency Services for Anti-Gang Sweep Program in the amount of \$50,000 to expand operations of the Merced Multi-Agency Gang Task Force to conduct planned sweeps and target specific criminal street gangs and adopt Resolution.

AUTHORIZED CONTRACT NO. 2008219 AND ADOPTED RESOLUTION NO. 2008-178 AS RECOMMENDED AYES: ALL

PUBLIC DEFENDER

38. Contract with Stan Scott for Investigative Services for the Public Defender and terminate Contract No. 2006025.

AUTHORIZED CONTRACT NO. 2008220 AS RECOMMENDED AYES: ALL

AUDITOR

39. Set Secured Property Tax Rates for the 2008/2009 Fiscal Year and adopt Resolution.

ADOPTED RESOLUTION NO. 2008-179 AS RECOMMENDED AYES: ALL

40. Review and accept the Supplemental Law Enforcement Services Fund (SLESF) Report for COPS funds for the District Attorney, Sheriff and Corrections Departments.

APPROVED AS RECOMMENDED AYES: ALL

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

41. Contract with Counsel for Records Storage Lease at Castle for a portion of Building 1230 (approximately 150 square feet).

AUTHORIZED CONTRACT NO. 2008221 AS RECOMMENDED AYES: ALL

42. Contract with Board of Supervisors Office for Records Storage Lease at Castle for a portion of Building 1230 (approximately 112 square feet).

AUTHORIZED CONTRACT NO. 2008222 AS RECOMMENDED AYES: ALL

43. Contract with Trillion Partners, Inc. for Land and Water Tower space for Wide Area Network Installation for the Merced County Office of Education.

REVIEW BOARD ORDER – SEE PAGE 15

DEPT. OF ADMINISTRATIVE SERVICES

44. Declare the 800 boxes of "weeded books" as Surplus Property and authorize the donation of said books to the Merced Rotary Club.

APPROVED AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

45. Authorize Special Board Project Funds-District Three in the amount of \$4,235 to be utilized for purchase and installation of an automatic door from San Joaquin Glass for the Atwater Veterans Hall and authorize Blanket Purchase Order for the purchase with reimbursement of the costs to come Special Board Project Funds-District Three.

APPROVED AS RECOMMENDED AYES: ALL

46. Authorize Special Board Project Funds-District Five in the amount of \$2,842 to purchase a new Refrigerator for Del Hale Hall and authorize issuance of Purchase Order to SYSCO Central California.

APPROVED AS RECOMMENDED AYES: ALL

COUNTY COUNSEL

47. Contract with Abbott & Kindermann, LLP for Legal Services associated with the General Plan Update.

AUTHORIZED CONTRACT NO. 2008223 AS RECOMMENDED AYES: ALL

SHERIFF

48. Contract with Forensic Medical Group, Inc. for Forensic Autopsies.

AUTHORIZED CONTRACT NO. 2008224 AS RECOMMENDED AYES: ALL

EXECUTIVE OFFICE

49. Review and provide policy direction to proceed with or rescind the Public Service Buy Back Incentive and adopt Resolution

REVIEW BOARD ORDER – SEE PAGE 16

50. Approve the appointment of Auditor/Controller/Recorder/Clerk Designee and approve Elected and "A" Level Benefits effective October 6, 2008.

REVIEW BOARD ORDER – SEE PAGE 16

51. Reappoint James N. Fincher to a second four year term as County Counsel.

APPROVED AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

52. Workforce Investment Board – Resignation of Thomas Tsubota and post the Vacancy.
APPROVED AS RECOMMENDED AYES: ALL
53. Emergency Medical Care Committee – Appointed Sue Fenderson (Hospital Representative) until June 30, 2011, Glenda Leonard (OES Designated Member) until June 30, 2010 and Reappointed Robert Thrailkill, MD (ER Physician Representative), Chuck Coelho (Ambulance Company Representative), Dewayne Jones (District Five Representative), Kraig Riggs (Ambulance Company Representative), Mike Harris (Law Enforcement Representative) and Ronald Wolff (District Four Representative) until June 30, 2012.
APPROVED AS RECOMMENDED AYES: ALL
54. McSwain Municipal Advisory Council – Reappointed Tom Dinwoodie until July 26, 2012.
APPROVED AS RECOMMENDED AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

- ACCEPTED AND PLACED ON FILE AYES: ALL**
55. Human Services Agency re: Notification of award for lowest Food Stamp Program Payment Error Rate in the State of California for the period of October 2006 through September 2007.
56. San Joaquin Valley Air Pollution Control District re: Notice of Public Hearing on Proposed Rules and Regulations set for September 18, 2008. (On file with Clerk)
57. Governor's Office of Emergency Services re: The U.S. Small Business Administration has declared the primary county of Madera and contiguous counties of Fresno, Mariposa, Merced, Mono and Tuolumne a disaster area as a result of a July 30, 2008 USDA disaster designation due to agricultural losses caused by drought that occurred October 1, 2007 through May 31, 2008.
58. Governor's Office of Emergency Services re: The U.S. Dept. of Agriculture granted a Secretarial disaster designation for the County of Madera and the contiguous counties of Fresno, Mariposa, Merced, Mono and Tuolumne due to agriculture losses caused by drought that occurred October 1, 2007 through May 31, 2008.
59. Governor's Office of Emergency Services re: The U.S. Dept. of Agriculture granted a Secretarial disaster designation for the County of Mariposa and the contiguous counties of Madera, Merced, Stanislaus and Tuolumne beginning January 1, 2008 and continuing.
60. Governor's Office of Emergency Services re: The U.S. Dept. of Agriculture granted a Secretarial disaster designation for the County of Merced and the contiguous counties of Fresno, Madera, Mariposa, San Benito, Santa Clara, Stanislaus and Tuolumne for drought that occurred October 15, 2007 through April 30, 2008.
61. Governor's Office of Emergency Services re: The U.S. Dept. of Agriculture granted a Secretarial disaster designation for the County of Santa Clara and the contiguous counties of Alameda, Merced, San Benito, San Mateo, Santa Cruz and Stanislaus for drought beginning March 1, 2008 and continuing.
62. State Water Resources Control Board re: Notice of Public Workshops - Discussion of the San Joaquin River Flow Objectives for the San Francisco/Sacramento-San Joaquin Delta Estuary and an Update on the Southern Delta Salinity.

63. State Water Resources Control Board re: Notice of Workshop re: Development of an Urban Water Conservation Regulatory Program.
64. State Water Resources Control Board re: Notice of Opportunity to Comment: Adoption of Intended Use Plan (IUP) for the Clean Water State Revolving Fund (CWSRF) for State Fiscal Year (SFY) 2008/09.
65. State Water Resources Control Board re: Notice of Petition for Temporary Urgency Change involving the transfer of 4,000 acre-feet of water to areas within the Westlands Water District under California Dept. of Water Resources Permit 16482 (Application 17512).
66. State Water Resources Control Board re: Notice of Opportunity for Public Comment on proposed approval of an Amendment to the Water Quality Control Plan for the San Diego Basin (Basin Plan) to incorporate revised Conditional Waivers of Water Discharge Requirements for Specific types of discharge within the San Diego Region.
67. State Water Resources Control Board re: Notice of Board Meeting set for September 2, 2008.
68. State Dept. of Wildlife Conservation Board re: Meeting Notice, Including Big Water Wetland Enhancement and Los Banos Wildlife Area, Merced County. (On file with Clerk)
69. State Fish and Game Commission re: Notice of Proposed Regulatory Action relating to Morro Bay State Marine Recreational Management Area, Elkhorn Slough State Marine Reserve and Dana Point State Marine Park which will appear on California Regulatory Notice Register. (On file with Clerk)

ADOPTED RESOLUTIONS IN MEMORY IN OF WALTER D. KENNEDY, JAMES "JIM" APOLINARIO AND SPENCER JAMES PORTIS AND ADJOURNED MEETING UNTIL TUESDAY, SEPTEMBER 16, 2008 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – SEPTEMBER 2, 2008

10:00 A.M. SCHEDULED ITEM **2008-09-02 PUBLIC OPPORTUNITY**

Auditor-Controller Steve Jones reviews the responsibilities of the Auditor-Controller and Treasurer pursuant to the Government Code and submits a letter regarding Setting Property Tax Rates for 2008/09 Fiscal Year.

Jean Okuye (Livingston) submits a newspaper article regarding the Diablo Grande project and speaks to the responsibility of such projects.

Chief Probation Officer Brian Cooley gives an update on the new Graffiti Abatement Program in Merced County.

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

10:00 A.M. SCHEDULED ITEM **2008-09-02 PLANNING - PUBLIC HEARING**

The time and date previously set for a public hearing to consider and certify the Final Environmental Impact Report for the Re-Establishment of the Merced County Enterprise Zone in the Cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos and Merced and certain unincorporated portions of Merced County.

Development Services Director Robert Lewis provides a brief overview and states correspondence was received by the Planning Department at 8:30 a.m. today from Lydia Miller (San Joaquin Raptor/Wildlife Rescue Center) and Steve Burke (Protect Our Water).

Assistant Planning Director Bill Nicholson reviews the powerpoint presentation.

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

Maureen McCorry, San Joaquin et al, speaks in opposition, asks for clarification on the mapping and submits the following documents: Letter dated September 2, 2008 from Lydia Miller (San Joaquin Raptor/Wildlife Rescue Center) and Steve Burke (Protect Our Water) to the Board of Supervisors, Letter dated September 2, 2008, from San Joaquin et al to the Board of Supervisors, E-Mail dated August 20, 2008 from San Joaquin et al to Bill Nicholson, Letter dated May 19, 2008 from Lydia Miller (San Joaquin Raptor/Wildlife Rescue Center) and Steve Burke (Protect Our Water) to Robert Lewis, Copy of Public Notice, Printed Page of "Merced Regional Enterprise Zone" from MCEDCO webpage, 2007 Enterprise Zone Map, Final EIR received from LMM, Letter dated May 19, 2008 from Maureen McCorry to Robert Lewis, Letter dated November 14, 2007 from US Fish & Wildlife Service to Scott Galbraith.

Heather Hennigan, Merced County Economic Development Corporation, reads and submits a letter in support from Ron Foster.

Merced County Farm Bureau Executive Director Diana Westmoreland-Pedrozo states concern with impact on water supply and speaks in support of jobs that support the agriculture industry.

Suzanne Roberts, General Manager for Modern Air, speaks in support of the concept of an Enterprise Zone and explains how Modern Air currently utilizes the advantages of being in an Enterprise Zone.

County Counsel James Fincher states an Enterprise Zone provides tax breaks for members that are in an Enterprise Zone but does not allow for expansion. The State made a determination there is no environmental impact and the project is exempt.

Jean Okuye (Livingston) states concern with businesses hiring employees at a lower rate because of the tax benefits of an Enterprise Zone.

Jennifer Pitts (Ballico) questions who owns the property that is being proposed as part of the Enterprise Zone along Highway 140.

The Chairman closes the public hearing.

The Board reviews the map of the areas being proposed for the Enterprise Zone(s) and discusses the benefits and restrictions of an Enterprise Zone.

Following discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Nelson, duly carried, the Board certifies the Final Environmental Impact Report for the re-establishment of the Enterprise Zone in the incorporated cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos and Merced County and certain unincorporated portions of Merced County was completed in compliance with CEQA requirements and reflects the lead agency's independent judgment and analysis.

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

10:00 A.M. SCHEDULED ITEM
2008-09-02 PLANNING - PUBLIC HEARING

The time and date previously set for a public hearing to consider Certification of the Final Environmental Impact Report (FEIR) for the Villages of Laguna San Luis Community Plan as adequate for compliance with CEQA, adopt the Mitigation Monitoring and Reporting Program, Environmental Findings of Fact and the Statement of Overriding Considerations and make Intended Decision to approve and adopt Community Plan No. CP07-002, Parallel Zone Change No. ZC07-006, Agricultural Preserve Withdrawal Amendment No. AP07-001.

County Counsel James Fincher states upon review of the conflict of interest law, the California Code requires anyone that owns property within 500 feet of the decisional process is deemed to have a conflict, present ownership, not past ownership, and since Supervisor O'Banion no longer owns property within 500 feet of this project, there is no conflict.

Development Services Director Robert Lewis provides a brief overview and advises late correspondence that referred to a CD was received by the Planning Department from Lydia Miller (San Joaquin Raptor/Wildlife Rescue Center) and Steve Burke (Protect Our Water); however, the CD has not yet been received.

Planner Robert King reviews the Staff Report and the powerpoint presentation.

William Miller, Project Manager, reviews the powerpoint presentation for the Community Plan and addresses concerns raised regarding school facilities, traffic, increased population impacting City parks, reads a statement and asks the Board approve the Plan.

Planner King continues with the powerpoint presentation and reviews the possible Board Actions.

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

Jean Okuye (Livingston) raises issues regarding mitigation in perpetuity, seismic studies, finance plan and implementation of traffic improvements, development agreement, implementation plan and protection of Kit Fox.

Jeff Freitas (Atwater) reads and submits a statement in opposition.

Martin McIntyre, San Luis Water District General Manager, provides a summary of the District's policies and obligations.

Merced County Farm Bureau Secretary/Treasurer Bill Thompson (Livingston) and Director Stacie Machado read and submit a statement requesting suspension of new town proceedings until the General Plan Update is complete.

Merced County Farm Bureau Executive Director Diana Westmoreland-Pedrozo speaks in opposition stating with the number of foreclosures and undeveloped lots in Los Banos, the Board should work with existing communities and developers to arrive at a better idea.

Maureen McCorry, San Joaquin et al, speaks in opposition, comments on document availability and submits the following: CD (subsequently numerous documents printed for the record), Planning Commission Minutes of July 9, 2008, Letter dated September 2, 2008 from San Joaquin et al to the Board of Supervisors, Printed Merced County Webpage, Printed Merced County Planning-Environmental Document Webpage, Letter dated June 11, 2008 from Maureen McCorry et al and Valley Land Alliance, Article from the New York Times dated August 24, 2008, Letter from Lydia Miller (San Joaquin Raptor/Wildlife Rescue Center) and Steve Burke (Protect Our Water) to the Board.

Tina Thomason, Counsel for the Applicant, responds to the late document submittal issue citing a Court ruling in such matters and requests the Board not consider any late comments and as the Court suggested include the documentation in the Administrative Record but not respond to those comments that were made late.

John Harris (Coalinga) states he has family that owns property within the project area and speaks in support.

Gordon Gravelle, Project Applicant, speaks in support stating this project has been going through studies, evaluations and analysis for twenty years.

Glenn Pace, President of the Wellington Corporation (landowner), speaks in support stating the applicants have done everything the County required.

Jim Resney, Pacific Cascade Group (landowner), speaks in support.

Marilyn Wright (Los Banos) speaks in opposition and submits two photos of Elk on adjoining property.

County Counsel James Fincher advises the material on the CD that was delivered has been reviewed and will be part of the Administrative Record of this project but the County will not comment or address the material. There are a lot of irrelevant documents and no nexus that the documents relate to this project. Counsel Fincher states the Environmental Impact Report for this project has been available to the public since May 2008 and there are only eight new pages of documents released by the County since May.

The Board discusses the history of the project, parks and recreation programs, impact fees for public safety and capital facilities, water issues and Kit Fox protection.

Following discussion, Supervisor O'Banion moves, seconded by Supervisor Nelson, based on Findings the Board certify the Final Environmental Impact Report for the Villages of Laguna San Luis Community Plan as adequate for compliance with CEQA, adopt the Mitigation Monitoring and Reporting Program, Environmental Findings of Fact, and Statement of Overriding Considerations and make the Intended Decision to adopt the Villages of Laguna San Luis Community Plan CP07-002, approve Zone Change No. ZC07-006, and the Agricultural Preserve Withdrawal Amendment No. APA07-001 for approval at the General Plan Cycle II Public Hearing.

Supervisor Kelsey votes "no". Motion carries.

Ayes: Crookham, Pedrozo, Nelson, O'Banion

Noes: Kelsey

10:00 A.M. SCHEDULED ITEM
2008-09-02 PLANNING - PUBLIC HEARING

The time and date previously set for a public hearing to consider 2008 Cycle II General Plan Amendment submitted by Planning as follows:

Villages of Laguna San Luis Community Plan CP07-002, Zone Change ZC07-006 and Agricultural Preserve Withdrawal Amendment No. APA07-001.

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

Upon motion of Supervisor O'Banion, seconded by Supervisor Nelson, duly carried, the Board waives further reading of the proposed ordinance, approves the Villages of Laguna San Luis Community Plan CP07-002, Zone Change Application ZC07-006 and Agricultural Preserve Withdrawal Amendment APA07-001 and adopts Ordinance No. 1849 and Resolution No. 2008-171.

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

ACTION ITEM NO. 27

2008-09-02 PUBLIC WORKS

The Clerk announces the Staff Report for the Master Lease Agreement with Sun Trust Leasing Corporation has been modified and is before the Board for consideration.

Upon motion of Supervisor Nelson, seconded by Supervisor Pedrozo, duly carried, the Board approves termination of Master Lease Agreement with Sun Trust Leasing Corporation that was executed by the Director of General Services in December 2002 in accordance with the terms and conditions of said lease agreement; approves and authorizes the Chairman to review, negotiate, approve and sign a new tax exempt Master Lease Agreement, Contract No. 2008210, and any other related documents, including but not limited to an Escrow Agreement with Sun Trust Bank required of the agreement with Sun Trust Equipment Finance and Leasing Corporation to finance the design and construction of energy and water conservation measures by Siemens Building Technologies at twenty-two County facilities in an amount not to exceed \$13,500,000 after review and approval by the County Executive Officer, County Counsel, Auditor-Controller and Public Works.

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

ACTION ITEM NO. 43

2008-09-02 COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

The Clerk announces the Contract with Trillion Partners, Inc. for Land and Water Tower space for Wide Area Network Installation for the Merced County Office of Education is before the Board for consideration.

County Counsel James Fincher suggests the recommendation be amended to reflect the Chairman sign the contract after review by County Counsel.

Upon motion of Supervisor Nelson, seconded by Supervisor Pedrozo, duly carried, the Board approves and authorizes the Chairman to sign Contract No. 2008250 with Trillion Partners Inc. for installation of three wireless antennas on the Castle Airport Water Tower and ground equipment below the tower and Fiber Optic connections to two Merced County Office of Education facilities located on Castle Airport subject to approval of County Counsel.

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

ACTION ITEM NO. 49

2008-09-02 EXECUTIVE OFFICE

The Clerk announces the Public Service Buy Back Incentive is before the Board for consideration.

County Executive Officer Dee Tatum reviews the Staff Report and historical background of the Incentive and advises employees that wish to buy back public service must obtain documentation from the Retirement Office, sign and return the agreement. The agreement is binding and when staff has determined actual costs the matter will be brought back to the Board for consideration.

John Carlisle, representing Retired Employees of Merced County, states concern that the Incentive could add to the unfunded liability of the retirement system which the retirees oppose.

Following discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board continues the matter for Staff determination of actual costs of the proposed Buy Back Incentive understanding Staff will bring the matter back to the Board as soon as information is completed.

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

ACTION ITEM NO. 50

2008-09-02 EXECUTIVE OFFICE

The Clerk announces the appointment of an Auditor/Controller/Recorder/Clerk designee is before the Board for consideration.

County Executive Officer Dee Tatum reviews the Staff Report and the process for filling the unexpired term of the Auditor/Controller/Recorder/Clerk advising the recommendation to the Board is Lisa Cardella-Presto.

Lisa Cardella-Presto appears before the Board and reviews her educational background.

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board appoints Lisa Cardella-Presto as the Auditor-Controller/Recorder/Clerk Designee and approves Elected and "A" Level Benefits effective October 6, 2008.

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