

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, JANUARY 29, 2013

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
HUBERT “HUB” WALSH, JR....DISTRICT 2
LINN DAVIS.....DISTRICT 3
CHAIRMAN DEIDRE F. KELSEY....DISTRICT 4
JERRY O’BANION.....DISTRICT 5

JAMES L. BROWN
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

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

Members of the public are advised that all pagers, cellular telephones and any other communication devices are to be turned off upon entering the Board Chambers

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

The Agenda is divided into three sections:

CONSENT CALENDAR – These matters include routine financial and administrative action and usually are approved by a single 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.

**THE PUBLIC IS INVITED TO SPEAK ON ANY ITEM ON THE AGENDA-
TESTIMONY IS LIMITED TO THREE MINUTES PER PERSON**

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(d)(1): (1) Los Banos Designated Local Authority v. California Director of Finance (Real Parties in Interest: County of Merced), Sacramento County Superior Court case no. 34-2012-80001352; and (2) Merced Designated Local Authority v. California Director of Finance (Real Parties in Interest: County of Merced), Sacramento County Superior Court case no. 34-2012-80001351.

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): One Case.

THE BOARD RECESSED AT 9:00 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED THERE WERE NO REPORTABLE ITEMS

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 three minutes per person)

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 15)

PLANNING - PUBLIC HEARING - PROPOSED ORDINANCE

To consider proposed Zone Change No. ZC12-002 to change the zoning of 0.25 acres from R-1 (Single Family Residential) to R-3 (Multiple Family Residential) located 100 feet east of the Hinton Avenue and Shell Street intersection in the Delhi SUDP; project site is designated Mixed Use in the Delhi Community Plan and zoned R-1.

RECOMMENDATION: Determine that Zone Change No. ZC12-002 is exempt from CEQA review under Section 15183, Projects Consistent with a Community Plan or Zoning, of the CEQA Guidelines and that the project does not require additional environmental review based on the CEQA findings in the Staff Report; approve Zone Change No. ZC12-002, and adopt Related Zone Change Ordinance based on the seven project findings and condition of approval.

REVIEW BOARD ORDER – SEE PAGE 9 AND 10

PUBLIC WORKS - PUBLIC HEARING - CONTINUED FROM JANUARY 15, 2013

To consider proposed Resolution on General Vacation of a portion of Bonner Road located in the Planada area and accept public comments.

RECOMMENDATION: Adopt Resolution for the General Vacation of a portion of Bonner Road.

REVIEW BOARD ORDER – SEE PAGE 10

REPORTS/BOARD DIRECTION

County Executive Officer, County Counsel, Board of Supervisors Members

CONSENT CALENDAR (Items # 1 - 15)

APPROVED AS RECOMMENDED

AYES: ALL

Planning

1. Approve and authorize Chairman to sign Amendment Contract No. 2012068 with Tony Meirinho for the consultant, Environmental Planning Partners, Inc., to complete Tasks 7, 8, and 9 as part of the Environmental Impact Report for the Meirinho Dairy Expansion project (CUP11-012).
2. Approve and authorize Chairman to sign Amendment Contract No. 2012069 with Environmental Planning Partners, Inc., to complete Tasks 7, 8, and 9 as part of the Environmental Impact Report for the Meirinho Dairy Expansion project (CUP11-012); and approve related budget transfer. (4/5 Vote Required)

Commerce, Aviation, and Economic Development

3. Approve and authorize Chairman to sign Amendment Contract No. 2008029 with Hunt's Water Services for community water system management and maintenance of the Castle Community Water System.

Health

4. Approve budget transfer in the amount of \$64,000 to increase revenues and expenses for the Children's Health Insurance program. (4/5 Vote Required).

Probation

5. Approve budget transfer in the amount of \$20,000 to purchase a copier for the AB 109 building and for miscellaneous expenses incurred by the AB 109 move.

6. Approve budget transfer in the amount of \$5,000 for the purchase of a replacement scanning component for the livescan fingerprint system.
7. PULLED

Executive Office

8. Act on Claim for Damages received from John Pinheiro and Ronald Killman as recommended by Risk Management and County Counsel.
9. Approve travel request received from Public Health and Human Services Agency as recommended by Executive Office.

Board Recognition

10. Authorize Certificates of Recognition to recipients of 2012 Merced County Association of Realtors Awards as follows: Terri Miller, President; Andy Krotik, Realtor of the Year Award; Gary Eno, Affiliate of the Year Award; Ed Walters, Jesse Fees Memorial Award; Vicki Bandoni, Bill Del Nero Lifetime Achievement Award; Tina DeLeon, President's Award; Allen Sietsema, President's Award; Mike Salvadori, Lifetime Achievement Award; Nelson Vega, Flanadori Award; Vicki Bandoni, Director; and David Lueck, Director.
11. Authorize Certificate of Recognition to Lynn Schultz for service as Gustine City Councilman.
12. Authorize Certificates of Recognition for dedicated service to the Los Banos Golden Agers Club as follows: 2012 Outgoing Officers: Joe Cox, Past President; Kent Sandhagen, President; Fernando Artalejo, Vice President; Willie Walker, Treasurer; Mary Lou Artalejo, Secretary; and Directors Beverly Sousa, Ceci Cardoza, Linda Galindez, Danny Galindez, and Geri Alves; and Mary Anderson, Publicity.
13. Authorize plaque in recognition of Helen Boffa Marciochi's dedicated service to the Merced County Superior Courts.
14. Authorize Certificate of Recognition to Ronn Dominici in celebration of retirement from Madera County Board of Supervisors.
15. Authorize Certificate of Recognition to the Honorable Dennis Cardoza for outstanding leadership, service, and commitment to the people of Merced.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

16. Contract with California Department of Transportation (CalTrans) for construction of the Atwater-Merced Expressway (AME) Project; authorize the Director of Public Works to execute the Funding Summary and to execute the Closure Statement upon completion of the project; and adopt Resolution.

AUTHORIZED CONTRACT NO. 2013012 AND ADOPTED RESOLUTION NO. 2013-14 AS RECOMMENDED AYES: ALL

17. Contract with Merced County Community Action Agency for the use of the Stevinson Veterans Building. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2013013 AS RECOMMENDED AYES: ALL

18. Authorize the Department of Public Works to circulate Requests for Qualifications to qualified consultants for construction management services for the Atwater-Merced Expressway project and Federally Funded bridge replacement projects; and authorize the Department of Public Works to review and rank proposals as well as negotiate a preliminary contract to be submitted to the Board of Supervisors for consideration.

AUTHORIZED CONTRACT NO. 2013014 AS RECOMMENDED AYES: ALL

19. Contract with Joseph B. Amarant and Helen J. Amarant for purchase of real property for acquisition of right-of-way for the Atwater-Merced Expressway Project; adopt Resolution accepting a Grant Deed for right-of-way from Joseph B. Amarant and Helen J. Amarant (APN 005-120-004) needed for construction of the Atwater-Merced Expressway Project; Adopt Resolution accepting a Grant Deed for right-of-way from Joe B. Amarant (APN 005-120-005) needed for construction of the Atwater-Merced Expressway Project; and approve payment to Fidelity National Title Company for the agreed value of the property plus escrow and any other transaction fees.

AUTHORIZED CONTRACT NO. 2013015 AND ADOPTED RESOLUTION NOS. 2013-15 (JOE & HELEN AMARANT) AND 2013-16 (JOE AMARANT) AS RECOMMENDED AYES: ALL

20. Contract with Noah and Lorna Williams for acquisition of right-of-way for the Atwater-Merced Expressway Project; adopt Resolution accepting a Grant Deed for right-of-way from Noah and Lorna Williams (APN 005-120-041) needed for construction of the Atwater-Merced Expressway Project; and approve payment to Fidelity National Title Company for the agreed value of the property plus escrow and any other transaction fees.

AUTHORIZED CONTRACT NO. 2013016 AND ADOPTED RESOLUTION NO. 2013-17 AS RECOMMENDED AYES: ALL

21. Contract with George W. Souza for acquisition of right-of-way for the Atwater-Merced Expressway Project; adopt Resolution accepting a Grant Deed for right-of-way from George W. Souza (APN 005-190-015) needed for construction of the Atwater-Merced Expressway Project; and approve payment to Fidelity National Title Company for the agreed value of the property plus escrow and any other transaction fees.

AUTHORIZED CONTRACT NO. 2013017 AND ADOPTED RESOLUTION NO. 2013-18 AS RECOMMENDED AYES: ALL

22. Approve the plans and specifications for the Gurr Road Overlay Project and direct the Department of Public Works to return to the Board of Supervisors with an Informational Item disclosing all actions taken on the project at a subsequent Board Meeting.

AUTHORIZED CONTRACT NO. 2013018 AS RECOMMENDED AYES: ALL

23. Approve the Plans and Specifications for the River Road and Vinewood Avenue Overlay Project and direct the Department of Public Works to return to the Board of Supervisors with an Information Item disclosing all actions taken on the project at a subsequent Board Meeting.

AUTHORIZED CONTRACT NO. 2013019 AS RECOMMENDED AYES: ALL

24. Approve the Plans and Specifications for the Atwater-Merced Expressway Project; Direct the Department of Public Works to return to the Board of Supervisors with an Information Item disclosing all actions taken on the project at a subsequent Board Meeting; and approve the related budget transfer. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2013020 AS RECOMMENDED AYES: ALL

25. Approve the plans and specifications for the Remodel at the Ag Center; authorize the Department of Public Works to advertise said plans and specifications and conduct a Public Bid Opening; authorize the Director of Public Works to award a construction contract to the lowest responsive bidder provided said bid is within the modified project budget; authorize the Chairman of the Board of Supervisors to execute the Construction Contract upon review of Department of Public Works and County Counsel; approve revised total estimated project budget of \$500,000; direct the Department of Public Works to return to the Board of Supervisors with an Information Item of all actions taken; and approve related budget transfers. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2013021 AS RECOMMENDED AYES: ALL

COMMERCE, AVIATION, AND ECONOMIC DEVELOPMENT

26. Authorize staff to secure the gate on Wallace Road from 6 p.m. to 6 a.m. every day of the week and all day on weekends to limit access to the Castle Commerce Center property; and direct staff to notify all tenants of the change.

APPROVED AS RECOMMENDED AYES: ALL

27. Accept the \$5,000 charitable contribution from Pacific Gas and Electric Company for assistance with the County's economic development programs, and direct staff to place the funds in Budget Unit 18200 Account 97990.

APPROVED AS RECOMMENDED AYES: ALL

28. Contract with Weather Nav Incorporated for control tower equipment maintenance at Castle Airport; and authorize staff to prepare and release a Request for Proposal for ongoing control tower equipment maintenance.

AUTHORIZED CONTRACT NO. 2013022 AS RECOMMENDED AYES: ALL

HUMAN SERVICES AGENCY

29. Approve and authorize Chairman to sign the Medi-Cal Certificate of Compliance to apply and qualify for the current fiscal year subvention funds for Veteran Services.

APPROVED AS RECOMMENDED AYES: ALL

30. Approve and authorize Chairman to sign the Subvention Certificate of Compliance to apply and qualify for the current fiscal year subvention funds for Veteran Services.

APPROVED AS RECOMMENDED AYES: ALL

MENTAL HEALTH

31. Contract with Fresno County Department of Behavioral Health for the provisions of inpatient services at the Marie Green Psychiatric Health Facility.

AUTHORIZED CONTRACT NO. 2013023 AS RECOMMENDED AYES: ALL

32. Contract with Shemoil's Investments Developments for the lease of office space located at 3090 M Street for the Mental Health Alcohol and Drug Services office.

AUTHORIZED CONTRACT NO. 2013024 AS RECOMMENDED AYES: ALL

COUNTY COUNSEL

33. Authorize and direct the Clerk of the Board to execute and issue the "Memorandum" or Notice of Non-Authorization, pursuant to Government Code Section 53853(b) and serve notice to Hilmar Unified School District, Los Banos Unified School District, Merced City School District, Weaver Union Elementary School District, and Delhi Unified School District

that the Board of Supervisors will not authorize issuance of the TRANS within 45 calendar days, thereby freeing the District to issue the TRANS on its own behalf.

APPROVED AS RECOMMENDED AYES: ALL

FIRE

34. Authorize the Merced County Office of Emergency Services to apply and accept the supplemental grant in the amount of \$88,000 from the FY 11 Emergency Management Performance Grant (EMPG) Program and return to the Board with budget related documents at a later date.

APPROVED AS RECOMMENDED AYES: ALL

35. Contract with California Emergency Management Agency for acceptance of award and excess award from FY12 totaling \$213,654; and approve related budget transfer. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2013025 AS RECOMMENDED AYES:ALL

HUMAN RESOURCES

36. Approve the following department personnel actions to Budget Unit 20400: 1. RE-ESTABLISH Supervising Deputy District Attorney; CHANGE one Chief Deputy District Attorney (pos #61) to Supervising Deputy District Attorney, CHANGE one Deputy District Attorney I/II/III/IV (pos 14) to Supervising Deputy District Attorney; 2. Approve modifications to the Supervising Deputy District Attorney classification; and adopt the amending Resolutions.

ADOPTED RESOLUTION NOS. 2013-19 (POSITION) AND 2013-20 (SALARY) AS RECOMMENDED AYES: ALL

REVIEW BOARD ORDER – SEE PAGE 10 AND 11

COUNTY EXECUTIVE OFFICER

37. Approve and accept the adopted Foundations Public Schools Conflict of Interest Code.

APPROVED AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

38. Authorize \$2,000 of District One's Special Board Project Funds to be forwarded to the Castle Air Museum Foundation, Inc., to assist with the cost of replacing their existing LED Welcome to Castle Museum sign.

APPROVED AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

39. Planning Commission - Reappoint Lynn Tanner representing District Two until October 1, 2016.

APPROVED AS RECOMMENDED AYES: ALL

40. Law Library Board of Trustees - Appoint Kelly Fincher as the Board of Supervisors' ex officio in place of the County Board Chair and Emily Haden as an additional trustee to the Law Library Board of Trustees for 2013.

APPROVED AS RECOMMENDED AYES: ALL

REVIEW BOARD ORDER – SEE PAGE 11

DEPARTMENT OF ADMINISTRATIVE SERVICES

41. (1) Deny or Uphold the SEMSA/RAS Protest; (2) If Deny the SEMSA/RAS protest, then recommend either: a) approve the contract with AMR, or b) cancel the current request for proposal for reasons unrelated to the protest submitted by SEMSA/RAS and authorize the issuance of an RFP for consultant services to assist with evaluating the current system design and delivery of services for the County's Exclusive Operator for Emergency Ambulance Service and Secondary Medical Public Service Answering Point.

APPROVED AS RECOMMENDED AYES: ALL

REVIEW BOARD ORDER – SEE PAGE 11 THROUGH 13

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

42. Fish and Game Commission re: Notice of proposed regulatory action relative to section 1.74 and 701, Title 14, California Code of Regulations, relating to sport fishing report cards, which was published in the California Regulatory Notice Register on January 18, 2013.
43. Fish and Game Commission re: Notice of proposed regulatory action relative to Amending Sections 354, 360, 361, 362, 363, 364, and 708, Title 14, California Code of Regulations, relating to Mammal Hunting Regulations for the 2013-2014 season, which were published in the California Regulatory Notice Register on January 4, 2013.
44. Letter from Dawn Keniley, Verizon Wireless Network Compliance re: Notification Letter for Project Location for Buhach & Hwy 99-NB; Notification of Public Utilities Commission of the State of California Cell Site Report on project located at 2892 N. Gurr Road, Atwater, California.
45. Merced County Mosquito Abatement re: December 2012 Manager's Report.

ADOPTED RESOLUTIONS IN MEMORY OF LIBERA ALBERTINA MARTINELLI, HARRY E. REDDICK JR. AND WILBUR GOMES, AND TOMAS MOITOSO AND ADJOURNED THE MEETING UNTIL FEBRUARY 5, 2013, AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – JANUARY 29, 2013

10:00 A.M. SCHEDULED ITEM

2013-01-29 PLANNING – PUBLIC HEARING

The time and date previously set for a public hearing to consider proposed Zone Change No. ZC12-002, applicant Ryan LaChapell, to change the zoning of 0.25 acres from R-1 (Single Family Residential) to R-3 (Multiple Family Residential) in the Delhi SUDP as submitted by Planning.

Interim Development Services Director Mark Hendrickson reviews the staff report and informs the Board that the Zone Change would increase the project site's density from two Single Family residences to two multi-family residences allowing for the construction of two additional duplexes, a density of 16 dwelling units per acre.

The Chairman opens the public hearing and asks if there is anyone present wishing to speak. No one speaks. The Chairman closes the public hearing.

Upon motion of Supervisor Walsh, seconded by Supervisor O'Banion, duly carried, the Board determines that Zone Change No. ZC12-002 is exempt from CEQA review under Section 15183, *Projects Consistent with a Community Plan or Zoning*, of the CEQA Guidelines and that the project does not require additional environmental review based on the CEQA findings in the Staff Report; approve Zone change No. ZC12-002, and adopts Related Zone Change Ordinance No. 1903 based on the seven project findings and condition of approval as follows:

CEQA Findings

1. No further environmental review of the project is required in accordance with Section 15183, *Projects Consistent with a Community Plan or Zoning*, of the CEQA Guidelines based on the following:
 - This project site is located within the Delhi Specific Urban Development Plan (SUDP) boundary for which a Community Plan was adopted in year 2006.
 - The project site is designated Mixed Use land use in the Delhi Community Plan. This designation encourages a mixture of small lot detached and attached single-family homes, patio / courtyard homes, apartments, town homes and condominiums. The residential density ranges from a minimum of 4.5 to a maximum of 33.0 dwelling units / gross acre. The proposed zone change from R-1 (Single Family Residential) to R-3 (Multiple Family Residential) would increase the project site's development density from two single family residences to two multi-family residences, allowing for the construction of two additional duplexes. The project site would support four residential units on the 0.25 acre site, a density rate of 16 units per acre. Therefore, the proposed zone change would allow residential densities conforming to the Mixed Use land use designation.
 - An environmental Impact Report (EIR) was certified for the Delhi Community Plan.
2. The determination that the application is exempt from CEQA review reflects the independent judgment of the County.

Project Findings

1. Zone Change No. ZC12-002 proposes to change the zoning of 0.25 acres from R-1 (Single Family Residential) to R-3 (Multiple Family Residential) for the purpose of expanding an existing multi-family residential development by constructing two duplexes.

2. The property is located 100 feet east of the Hinton Avenue and Shell Street intersection in the Delhi SUDP.
3. The proposed zone change would allow residential densities conforming to the Mixed Use land use designation.
4. This project was referred to the following agencies for comments: Merced County Department of Public Health/Environmental Health, Fire Department, Department of Public Works/Roads, Department of Public Works/Building and Safety, Delhi County Water District, and the Delhi Municipal Advisory Council (MAC).
5. The project, as conditioned, is compatible with adjacent land uses, properties and neighborhoods.
6. The project, as conditioned, will not be a nuisance or detrimental to the public health, safety and general welfare.
7. The public hearing has been adequately noticed and advertised.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

10:00 A.M. SCHEDULED ITEM

2013-01-29 PUBLIC WORKS – PUBLIC HEARING – CONT'D FROM JANUARY 15, 2013

The time and date previously set for a public hearing to consider proposed Resolution for the General Vacation of a portion of Bonner Road, located in the Planada area, continued from January 15, 2013.

Public Works Director Dana Hertfelder reviews the staff report and informs the Board that the Public Hearing was continued to allow for compliance with Streets and Highways Code Section 8323 which requires posting of notices at least two weeks prior to the Public Hearing.

The Chairman opens the public hearing and asks if there is anyone present wishing to speak. No one speaks. The Chairman closes the public hearing.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Davis, duly carried, the Board adopts Resolution No. 2013-13 for the General Vacation of a portion of Bonner Road, located in the Planada area.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

ACTION ITEM NO. 36

2013-01-29 HUMAN RESOURCES

The Clerk announces department personnel actions for Budget Unit 20400 are before the Board for consideration.

Supervisor Pedrozo requests clarification on this action and questions if there are cost savings involved.

Director of Human Resources Robert Morris reviews the Board Agenda Item and informs the Board that this action will assist with the new court calendaring system, and there are no general fund costs.

Chief Deputy District Attorney Rob Carroll addresses the Board and states the main reason for this action is to accommodate the new court calendaring system. The need for this item is also

due to a loss in staffing. He further states that the department plans on hiring from within the office.

Upon motion of Supervisor O'Banion, seconded by Supervisor Walsh, duly carried, the Board approves the following department personnel actions to Budget Unit 20400: 1. RE-ESTABLISH Supervising Deputy District Attorney; CHANGE one Chief Deputy District Attorney (pos #61) to Supervising Deputy District Attorney, CHANGE one Deputy District Attorney I/II/III/IV (pos 14) to Supervising Deputy District Attorney; 2. Approve modifications to the Supervising Deputy District Attorney classification; and adopts Resolution No. 2013-19 (Position) and No. 2013-20 (Salary).

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

ACTION ITEM NO. 40

2013-01-29 BOARD APPOINTMENTS

The Clerk announces Law Library Board of Trustees appointment is before the Board for consideration.

County Counsel James Fincher declares a conflict and leaves the Board Chambers.

Upon motion of Supervisor Walsh, seconded by Supervisor Pedrozo, duly carried, the Board appoints Kelly Fincher as the Board of Supervisors' ex officio in place of the County Board Chair, and appoints Emily Haden as an additional trustee to the Law Library Board of Trustees for 2013.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

ACTION ITEM NO. 41

2013-01-29 DEPARTMENT OF ADMINISTRATIVE SERVICES

The Clerk announces denial or upholding of the SEMSA/RAS Protest or award of a contract for Exclusive Operator for Emergency Ambulance Services is before the Board for consideration.

Director of Administrative Services Mark A. Cowart provides the board with background information on this item. Mr. Cowart states that representatives from SEMSA are here today to present their concerns regarding denial of their protest. He further states that they have been asked to limit their presentation to concerns raised in their protest and the county's response to that protest, and have also been asked to limit their presentation to 15 minutes.

Chairman Kelsey reads the proceedings to ensure that everyone understands what is being done. She states that the first item involves the County's RFP process for the services, and County staff has recommended an award of the contract to American Medical Response (AMR) West. Sierra Medical Services Alliance (SEMSA), which was the other bidder, has protested that recommendation. That protest has been denied by Administrative Services Director and SEMSA has appealed that denial to this Board. Chairman Kelsey states that this item involves two subparts, and first the Board will consider SEMSA's protest and will either reverse the Director's decision and uphold the protest or sustain the Director's decision and deny the protest, and on this sub-item the Board of Supervisors' decision is final. Second, if the protest is denied, the Board will then decide whether to adopt staff's recommendation to approve the AMR contract, and on this sub-item, the Board of Supervisor's is not the final decision maker. The Board will be making a recommendation to the Public Health Director who is the Local Emergency Service Agency

Director and is, therefore, the decision maker under State and local law. Chairman Kelsey states that we will hear from SEMSA and AMR, and SEMSA will speak first pursuant to its rights under paragraph 7.9 of the RFP. AMR will then be allowed to respond. Both SEMSA and AMR have a 15 minute time limit, and when they are finished comments will be taken from the general public. Individual speakers will be limited to 3 minutes each, and this is the only time for public opportunity to speak on this item.

Chris Odne, Counsel for SEMSA summarizes the arguments that they feel are most critical. He speaks on local vendor preference and its application to this RFP; the September 7 letter from State EMS to the County; the County's mandatory duty to disallow AMR's untimely protest; deficiencies with the scoring process, scoring irregularities, and the proposal review committee. Mr. Odne requests that the Board uphold the protest.

Tom Wagner, CEO for AMR West, commends Merced staff for their efforts to deliver patient care services to the community. Mr. Wagner speaks of AMR's superior bid for services in that it provided for better services, more ambulances, more paramedics and EMTs, and more medicine which means more lives saved. He states that there was no flaw in the process and requests that the Board deny the protest and award the contract to American Medical Response. Mr. Wagner introduces Dr. Ed Rock, Chief Medical Officer, who is in charge of the national medicine and clinical initiatives for AMR nationwide. Mr. Rock wrote the AMR's portion of the proposal relating to medicine.

Ed Rock, AMR Chief Medical Officer, speaks about delivery of clinical care for patients, the citizens, and the visitors in the community.

The following individuals speak in support of the Riggs Ambulance Service: Johnny Mays, Mayor of Dos Palos; Frank Delgado, Merced resident; Don Bergman, Merced Booster Club Representative; and Margaret Randolph, Merced resident.

The Chairman closes the Public Opportunity.

Deputy County Counsel Michael Calabrese responds to Mr. Odne's statement that the Local Preference Ordinance applies unless an RFP is exempted from that preference by statute or regulations. Mr. Calabrese clarifies and states it is an incomplete statement of the rule, and the Ordinance reads that the preference applies unless it is exempted by statute or regulation or is otherwise exempt. He states there does not have to be a statute or regulation. Mr. Calabrese also discusses the Notice of Intent to Award and the conflict of definitions contained in the RFP document. He further states that the definition on page 5 is what staff relied upon to allow the AMR Protest. Mr. Calabrese speaks regarding the suggestion that staff did not reach out to SEMSA to inform them of the protest. Mr. Calabrese stated there was no differential treatment.

Following discussion on the wording of the motion, Supervisor Pedrozo moves to reverse the Director's decision and uphold the protest.

The motion dies for lack of a second on the motion.

Supervisor Walsh moves, seconded by Supervisor O'Banion, to affirm the Administrative Director's decision and deny the SEMSA protest.

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

Ayes: Kelsey, Walsh, Davis, O'Banion

Noes: Pedrozo

Following lengthy discussion, Supervisor Walsh moves, seconded by Supervisor O'Banion, to cancel current request for Proposal for reasons unrelated to the protest submitted by SEMSA/RAS and authorize issuance of an RFP for consultant services to assist with evaluating the current system design and delivery of services for the County's Exclusive Operator for Emergency Ambulance Service and Secondary Medical Public Service Answering Point.

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

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion