

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, DECEMBER 09, 2014
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
DEIDRE F. KELSEY....DISTRICT 4
CHAIRMAN 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
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 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 -
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): Two Cases

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

**GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA
ITEMS)**

10:00 A. M.

PLEDGE OF ALLEGIANCE

PUBLIC OPPORTUNITY TO SPEAK ON ANY MATTER OF PUBLIC INTEREST WITHIN THE BOARD'S JURISDICTION INCLUDING ITEMS ON THE BOARD'S AGENDA, EXCEPT FOR THOSE ITEMS SPECIFICALLY SCHEDULED AS PUBLIC HEARINGS (Testimony limited to three minutes per person)

REVIEW BOARD ORDER – SEE PAGE 6

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

PUBLIC HEARINGS

PUBLIC WORKS - PUBLIC HEARING - PROPOSED RESOLUTION

To consider a Resolution for the general vacation of a portion of an alley in the Planada Area.

RECOMMENDATION: 1) Open Public Hearing and accept public comments; 2) Close Public Hearing; 3) Adopt the Resolution for the General Vacation of a portion of an alley located approximately 123.53' east of Plainsburg Road, located in the Planada area; and 4) Instruct the Board Clerk to record a certified copy of the Resolution.

REVIEW BOARD ORDER – SEE PAGE 6

PUBLIC WORKS - PUBLIC HEARING - PROPOSED ORDINANCE

To consider the proposed ordinance entitled "An Ordinance Amending Refuse Service Fees and Charges for County Solid Waste Franchise Areas" (Amends Ordinance 1914 and Chapter 5.90 of the Merced County Code).

RECOMMENDATION: 1) Waive further reading of Proposed Ordinance; 2) Open Public Hearing and receive comments; 3) Close Public Hearing 4) Adopt Ordinance amending refuse service fees and charges for County Solid Waste Franchise Areas (Amends Chapter 5.90 to the Merced County Code and Ordinance 1914).

REVIEW BOARD ORDER – SEE PAGES 6 AND 7

COUNTY EXECUTIVE OFFICE - PUBLIC HEARING - FIRST READING OF PROPOSED ORDINANCE

Conduct first reading of a Proposed Ordinance entitled "An Ordinance to Prevent the Mining and Export of Groundwater within the Unincorporated Areas of Merced County."

RECOMMENDATION: 1) Waive further reading of Proposed Ordinance; 2) Open Public Hearing and receive comments; 3) Close Public Hearing; 4) Set a second reading and possible adoption for December 16, 2014 at 10:00 a.m.

REVIEW BOARD ORDER – SEE PAGES 7 AND 8

REPORTS/BOARD DIRECTION

County Executive Officer, County Counsel, Board of Supervisors Members

CONSENT CALENDAR (Items # 1-11)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Approve and authorize the Chairman to sign Amendment Contract No. 2011127 with Signature-Life Safety Services, Inc. for an increase of \$4,390 per year for the remaining 2 years for routine testing and maintenance of fire systems and components for an additional 3 County-owned buildings.
2. Set a public hearing for the second Board meeting in 2015 at 10 a.m. to receive public comments and to consider amending Ordinance No. 1922 and Chapter 10.28 of the Merced County Code entitled "Conduct in Parks."
3. 1) Authorize the Department of Public Works to circulate a Request for Qualifications (RFQ) for firms to provide environmental documentation and preliminary design of the Black Rascal Flood Control Project; and 2) authorize the Department of Public Works to review and rank proposals and negotiate a contract to be submitted to the Board at a later date for approval and execution.

Health

4. Approve budget transfer in the amount of \$14,336 for purchase of Toughbooks for paramedics in the field to input patient care information and to generate Electronic Patient Care Reports (ePCR). (4/5 Vote Required)
5. 1) Approve and authorize the Chairman to sign Renewal Contract No. 2007030 with California Department of Health Care Services for Children's Medical Services Program

Allocations for FY 14-15, and approve the Merced County Department of Public Health's acceptance of the Child Health and Disability Prevention Program, Health Care Program for Children in Foster Care Program, and the California Children's Services program terms and conditions as stated in the submitted certification statements and funding in the amount of \$3,489,602 for the period of July 1, 2014 through June 30, 2015; 2) and authorize the Chairman to sign the Certification Statements.

Child Support

6. Approve budget transfer in the amount of \$9,500 to replace non-serviceable printer.

Sheriff

7. Approve budget transfer in the amount of \$6,000 to establish fixed asset account 86079 in the 22100 Sheriff's Operations budget to purchase 2 new "K-9 Transport Systems" for the 2013 Ford Police interceptors SUVs. (4/5 Vote Required)

County Executive Office

8. Act on Claims for Damages received from Gerardo Partida, Dennis Diehl, April Noriega, and Fresno Community Hospital as recommended by Risk Management and County Counsel.

Board of Supervisors

9. Authorize Certificates of Recognition for accomplishments and graduation from Merced Day Reporting Center to the following individuals: Jacob Vega, Thongsee Boonmee, Lajawn Cokley, Carlos Esquibel, Jose Gallardo, Rafael Gomez-Cruz, Chong Her, Tong Her, Tyron Hill, Julian Lopez, Rodney Mathews, Sean McMillan, Nathan Northcutt, Phillip Simonian, Juan Tinoco, Steven Wilson, Tyche Duverna, Angelo Powers, Dylan Thompson, and Richard Pierce.
10. Authorize Certificates of Recognition to the following individuals as follows: Sierra Alamo, Gustine High School Girls State Representative; Bobbi Solano, Orestimba High School Girls State Representative; Spencer J. Alamo, Gustine High School Boys State Representative; Trevor J. Beach, Orestimba High School Boys State Representative; and Bobbi Solano, Miss Newman.
11. Authorize Certificates of Recognition to the following individuals selected as 2014 Veterans Day Parade honorees: Alfredo Gamboni, Mary Fragnito, Rachel Brooks, Navpreet (Nav) Sandher, Judge Brown, Robert Gilbert, Otto Regan, and Peter (Scotty) Burns.

REGULAR CALENDAR

BOARD ACTION

COMMUNITY AND ECONOMIC DEVELOPMENT

12. Approve the Memorandum of Understanding, an Economic Development Agreement between the Cities of Dos Palos, Gustine, Livingston, Los Banos, Merced, Atwater, and County of Merced; and authorize the Chairman to sign the Memorandum of Understanding.

AUTHORIZED CONTRACT NO. 2014203 AS RECOMMENDED AYES: ALL

13. Approve the Economic Development Action Plan and direct staff to implement the strategies included therein to encourage and promote business retention, expansion and attraction in

Merced County, and periodically report back to the Board as to progress being made.

APPROVED AS RECOMMENDED AYES: ALL

FIRE

14. Accept grant award from the California Governor's office of Emergency Services FY14 Homeland Security Grant Program (HSGP) in the amount of \$344,146; and approve the related budget transfers. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2014204 AS RECOMMENDED AYES: ALL

ELECTIONS

15. Adopt Resolution to accept and declare the results of the Statewide Gubernatorial General Election held November 4, 2014, in Merced County; and declare elected the candidates elected to each office under the Board of Supervisors' jurisdiction; and accept the Registrar of Voters Declaration of Candidates re-elected to the office of Judge of the Superior Court.

ADOPTED RESOLUTION NO. 2014-118 AS RECOMMENDED AYES: ALL

COUNTY EXECUTIVE OFFICE

16. Adopt the Board of Supervisors 2015 Calendar for the regularly scheduled meetings.

APPROVED AS RECOMMENDED AYES: ALL

17. Designate December 26, 2014 and January 2, 2015 as holidays for county employees.

APPROVED AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

18. Authorize \$3,000 of District Three's Special Board Project Funds to be forwarded to the City of Atwater for electrical upgrades to Veterans Park.

APPROVED AS RECOMMENDED AYES: ALL

19. Authorize \$5,000 of District One's Special Board Project Funds to be forwarded to the Bible Christian Church at Ninevah Outreach Food Pantry for providing food to the Planada, LeGrand and Plainsburg areas.

APPROVED AS RECOMMENDED AYES: ALL

20. Accept and approve recommendations from the Special Districts and notify the Special Districts of the action taken.

APPROVED AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

21. 1) Appoint Ryan Paskin to serve as the Appointed Member At-large Slot #6 on the Merced County Employees' Retirement Board until July 1, 2017; or 2) Reopen the application period to see if there is additional interest from the public for a larger pool to consider.

APPROVED AS RECOMMENDED AYES: ALL

REVIEW BOARD ORDER – SEE PAGES 8 AND 9

THE BOARD ADOPTED RESOLUTIONS IN MEMORY OF JUDGE BROWN, JOHN ROSS BEAVERS, JIM SUTHERLAND, KEITH DRURY, AND FRED PETRONI AND ADJOURNED THE MEETING UNTIL TUESDAY, DECEMBER 16, 2014, AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – DECEMBER 9, 2014

10:00 A.M. SCHEDULED ITEM
2014-12-09 PUBLIC OPPORTUNITY

Jean Okuye, Livingston resident, states she has been appointed to serve on the East Merced Resource Conservation District and gives background on herself. Ms. Okuye submits documents for the record.

Bob Weimer clarifies comments on water drilling process and comments submitted to the stakeholder water group.

Matthew Gonzalez, Merced County News Channel, states he has been gathering signatures to request Removal of District Attorney Larry Morse. He does not believe Mr. Morse is doing enough to eliminate gang activity and is not focused on crime. Mr. Gonzalez submits documents for the record.

James Hodges speaks on current water issues and subsidence.
Present: O'Banion, Pedrozo, Walsh, Davis, Kelsey

10:00 A.M. SCHEDULED ITEM
2014-12-09 PUBLIC WORKS - PUBLIC HEARING – PROPOSED RESOLUTION

The time and date previously set for a public hearing to consider adoption of a Resolution for the General Vacation of a portion of an alley located approximately 123.53' east of Plainsburg Road, located in the Planada area is before the Board for consideration.

Director of Public Works Dana Hertfelder reviews the staff report.

Chairman O'Banion questions if the application has gone through Planning.

Mr. Hertfelder states the project approval went through Planning.

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 approves the General Vacation of a portion of an alley located approximately 123.53' east of Plainsburg Road, located in the Planada area; and adopts Resolution No. 2014-117.

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

10:00 A.M. SCHEDULED ITEM
2014-12-09 PUBLIC WORKS – PUBLIC HEARING – PROPOSED ORDINANCE

The time and date previously set for a public hearing to consider a proposed ordinance entitled "Amending Refuse Service Fees and Charges for County Solid Waste Franchise Areas (Amends Ordinance No. 1914 and Chapter 5.90 of the Merced County Code) is before the Board for consideration.

Public Works Director Dana Hertfelder reviews the staff report.

The Chairman opens the public hearing and asks if there is anyone present wishing to speak.

James Hodges, Merced resident, states he is opposed to any increases.

The Chairman closes the public hearing.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Walsh, duly carried, the Board waives further reading of the ordinance and adopts Ordinance 1926 "Amending Refuse Service Fees and Charges for County Solid Waste Franchise Areas (Amends Ordinance No. 1914 and Chapter 5.90 of the Merced County Code).

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

10:00 A.M. SCHEDULED ITEM

2014-12-09 COUNTY EXECUTIVE OFFICE – PUBLIC HEARING – FIRST READING OF PROPOSED ORDINANCE

The time and date previously set to conduct the first reading to consider proposed Ordinance entitled: "An Ordinance to Prevent the Mining and Export of Groundwater within the Unincorporated Areas of Merced County" is before the Board for consideration.

The Board discusses the process of opening the public hearing to just receive public comments and then continue the hearing to a later date to give to the stakeholders group to review current information received or to move forward with the first reading of the ordinance. (Supplemental #1)

The Chairman opens the public hearing and asks if there is anyone present wishing to speak.

Tom Stillman of Le Grand states he has many questions and is uncertain how the proposed ordinance will affect States. He also states he is opposed to the pumping and selling of water and would like to understand what the ordinance is all about before approving it. Mr. Stillman submits documents for the record.

Stan Bunce, Merced resident, reads a short statement regarding hydraulic fracturing.

Eric Swenson states everyone needs to work cooperatively on the ordinance and submits documents for the record.

Bob Weimer, Atwater resident, states he supports the ordinance and believes it needs to move forward and submits documents for the record.

Amanda Carvajal, Executive Director Farm Bureau, states there was clarification last meeting regarding a hydrologist on the stakeholder board.

Kim Rogina asks when can the public have access to the recent comments submitted and if the stakeholder meetings can have observers.

County Executive Officer Jim Brown states last night's comments have been placed in the basket and copies will be provided to those interested. Mr. Brown also states they will try to get a group together as soon as possible to go over the recommended changes to the ordinance.

The Chairman closes public hearing.

Supervisor Pedrozo states he takes offense to the comments made that there has not been enough public outreach. Staff and the stakeholder group have put in as much time as possible to keep the public informed.

Supervisor Kelsey states she appreciate the committee's comments on the items not in the draft ordinance. Supervisor Kelsey also states she sees a discrepancy in her hard copy of Supplemental #1 to the version on the computer.

County Counsel James Fincher states the Supplemental has changes from this morning submitted from Mr. Swenson.

Supervisor Walsh states there is a sense of urgency to move forward and the reason for the continuation of the public hearing is to review current suggested changes submitted with the stakeholder group.

Following further discussion and upon motion of Supervisor Walsh, seconded by Supervisor Pedrozo, duly carried, the Board continues the public hearing until after the first of the year to refer recommended changes back to the stakeholders group for review.

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

ACTION ITEM #21

2014-12-09 BOARD APPOINTMENTS

The clerk announces two options are before the Board for consideration; Option 1. To appoint Ryan Paskin to serve as the Appointed Member-At large (Slot #6) on the Merced County Employees Retirement Board until July 1, 2017 and; Option 2. Reopen the application period to see if there is additional interest from the public for a larger pool to consider from.

Supervisor Kelsey moves to approve option one to appoint Ryan Paskin as the appointed Member-At Large Slot #6 until July 1, 2017, Supervisor Pedrozo seconds the motion.

The Chairman call for the vote on the motion.

Ayes: Kelsey, Pedrozo

Noes: O'Banion, Walsh, Davis: Motion Fails

Supervisor Walsh states he is supportive of the interview process but there is only one applicant, and is apprehensive that there are not more choices and would like a larger pool.

Supervisor Kelsey states it's difficult to get applicants because of requirements of 25 hours of training and attending two meetings a month. She also states previous applicants did not realize the commitment.

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board approves Option 2. to reopen the application process to see if there is additional interest from the public for a larger pool to consider from and to include Mr. Paskin in the process at that time.

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