

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, MARCH 03, 2015

Closed Session – 9:00 a.m.

Regular Meeting – 10:00 a.m.

Public Hearing Wright Solar Project – 1:30 p.m.

At Large Interviews – 2:30 p.m.

MERCED COUNTY
ADMINISTRATION BUILDING
2222 “M” STREET
BOARD ROOM, THIRD FLOOR
MERCED, CALIFORNIA 95340
(209) 385-7366

CHAIRMAN JOHN PEDROZO.....DISTRICT 1
HUBERT “HUB” WALSH, JR.....DISTRICT 2
DARON McDANIEL.....DISTRICT 3
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
INQUIRE WITHIN THE BOARD OF SUPERVISORS OFFICE

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: 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; United Public Employees (UPE), Unit 3; Merced County Attorney Association (MCAA), Unit 7; Teamsters (Corrections), Unit 2; Merced County Law Enforcement Sergeants, Unit 30; Merced County Deputy Sheriff Association (DSA), Unit 10; Teamsters (Non-Safety Corrections), Unit 12; Merced County Public Safety Services Unit (MCPSSU), Unit 14; and Probation Supervising Employees, Unit 11. Agency Negotiator: Marci Barrera.

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) Howard v. County of Merced, Merced Superior Court Case No. CVM017283

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(2): Two Cases

THE BOARD RECESSED AT 8:30 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT, AND THE CHAIRMAN ADVISED STAFF WAS 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 9

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 9)

PUBLIC HEARINGS:

COMMUNITY AND ECONOMIC DEVELOPMENT - PUBLIC HEARING

To consider Zone Change No. ZC13-002 and related Zone Change Ordinance and Administrative Application No. AA13-029 based on the findings and subject to the conditions of approval and mitigation measures and approve the Mitigation Monitoring and Reporting Program.

RECOMMENDATION: 1) Open Public Hearing and receive testimony; 2) Close Public Hearing; 3) Adopt the Initial Study/Mitigation Negative Declaration for Zone Change No. ZC13-002 and Administrative Application No. ZC13-002; and, 4) Approve Zone Change No. ZC13-002 and Administrative Application No. AA13-029 based on the findings and subject to the conditions of approval and mitigation measures and approve the Mitigation Monitoring and Reporting Program; and adopt the related Zone Change Ordinance.

REVIEW BOARD ORDER – SEE PAGES 9 THROUGH 13

PUBLIC WORKS - PUBLIC HEARING

To consider the formation of Underground Utility District No. 12 on Dan Ward Road in the Franklin-Beachwood area.

RECOMMENDATION: 1) Open Public Hearing and accept public comments; 2) Close Public Hearing; 3) Adopt the Resolution for the formation of Underground Utility District No. 12 along Dan Ward Road between Franklin Road and Beachwood Drive; and 4) Direct the Board Clerk to record adopted Resolution including exhibits.

REVIEW BOARD ORDER – SEE PAGES 13 AND 14

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

To consider proposed ordinance entitled "An Ordinance to Prevent the Mining and export of Groundwater within the Unincorporated Areas of Merced County.

RECOMMENDATION: 1) Introduce and Conduct First Reading of a proposed ordinance; 2) Waive further reading of the proposed ordinance; 3) Open Public Hearing; 4) Receive testimony; 5) Close Public Hearing and set Second Reading and possible adoption of the ordinance scheduled for March 17, 2015 at 10 a.m.

REVIEW BOARD ORDER – SEE PAGES 14 AND 15

LUNCH BREAK

1:30 P.M.

COMMUNITY AND ECONOMIC DEVELOPMENT - PUBLIC HEARING

To consider proposal to construct a Solar Photovoltaic Electrical Generation Facility in the Santa Nella area (Wright Solar Park Project).

RECOMMENDATION: Open public hearing and receive testimony; 2) Close the public hearing; 3) Certify the Final Environmental Impact Report based on the 3 findings contained in the March 3, 2015 Board Staff Report; 4) Approve

Conditional use Permit No. CUP12-017 based on the 11 Project Findings and subject to the 23 Conditions of Approval, including 52 CEQA Mitigation Measures; 5) Adopt the February 2015 revised CEQA Environmental Findings of Fact and Statement of Overriding Considerations; 6) Approve the February 2015 revised Mitigation Monitoring and Reporting Program; 7) Remove the Project site from the Merced County Williamson Act Agricultural Preserve; 8) Approve the tentative partial cancellation of the project site Williamson Act Contracts; and, 9) Adopt the Resolution removing land from the Williamson Act Contract.

REVIEW BOARD ORDER – SEE PAGES 15 THROUGH 21

2:30 P.M.

MERCED COUNTY EMPLOYEES RETIREMENT BOARD - AT LARGE INTERVIEWS Positions: (2) Appointed Members - At Large, 3 Year Terms, Terms Expired on July 1, 2014 and January 1, 2015. Appointed Terms will be until July 1, 2017 and January 1, 2018. Applicants: Thomas Hawker, Cary Yanagi, Alfonse Peterson, Ryan Paskin, Robert Tomasetti.

REPORTS/BOARD DIRECTION

County Executive Officer, County Counsel, Board of Supervisors Members

CONSENT CALENDAR (Items # 1-9)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Adopt Resolution designating the intersection of Cabot Avenue and Meadowbrook Avenue as an all-way stop intersection; and, authorize the installation of stop signs on the Meadowbrook Avenue approaches to its intersection with Cabot Avenue and the eastbound Cabot Avenue approach to its intersection with Meadowbrook Avenue.

ADOPTED RESOLUTION NO. 2015-15

2. Approve and authorize the Chairman to sign Amendment to Contract No. 2013001 with Congressman Jim Costa for the lease of Room 305 within the County Administration Building at 2222 "M" Street, at the rate of \$1,620 per month.

Health

3. Approve and authorize the Chairman to sign Amendment to Contract No. 2013249 with Accela, Inc. consenting to the assignment and assumption of the Envision Connect software.

District Attorney

4. Approve Budget Transfer in the amount of \$30,708 to replace expired body armor for investigators and to purchase Cellebrite Unit to extract data from cell phones, audio for surveillance camera, and high volume scanner for case files and iphones. (4/5 Vote Required)

Sheriff

5. PULLED

Executive Office

6. Approve travel request received from the Sheriff's Department as recommended by Executive Office.

Board of Supervisors

7. Authorize Certificate of Recognition to Our Lady of Mercy School for Catholic Schools Week January 25, 2015 - January 31, 2015.
8. Authorize Certificate of Recognition to Dwight Amey for serving as chairman of the Dr. Martin Luther King Jr. Annual Celebration for 19 years.
9. Authorize Certificate or Recognition to Jose Antonio Ramirez for service as Livingston City Manager.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

10. Approve the proposed Mitigated Negative Declaration for the Moraga Road Bridge Replacement Project and comments received during the public review process, and find that there is no substantial evidence that the project will have a significant effect on the environment; and adopt the Mitigated Negative Declaration and Mitigation Monitoring Reporting Program for the Moraga Road Bridge Replacement Project.

APPROVED AS RECOMMENDED AYES: ALL

11. 1) Approve the Re-Roof of Snelling Library as Capital Improvement Project; 2) Authorize the inclusion of the Snelling Library Re-Roof into the Henderson Park Clubhouse Re-Roof project as an Alternate Bid item; 3) Approve the Related Budget Transfer; 4) Approve the plans and specifications for the Henderson Park Clubhouse Re-Roof and Snelling Library Re-Roof projects; 5) Authorize Public Works to advertise said plans and specifications for a Public Bid Opening; 6) Authorize the Director of Public Works to award a Construction Contract to the lowest responsible bidder, provided said Bids are below the established budget; 7) Authorize the Chairman to execute said Contract upon review by Public Works and County Counsel; and 8) Direct Public Works to return to the Board with an informational item of all actions taken.

AUTHORIZED CONTRACT NO. 2015020 AS RECOMMENDED AYES: ALL

12. Approve the ground lease agreement with Merced County Rescue Mission for use of the Old Merced Community Medical Center North parking lot as a Warming Center; and authorize the Director of Public Works to execute said agreement after review by County Counsel.

AUTHORIZED CONTRACT NO. 2015021 AS RECOMMENDED AYES: ALL

HEALTH

13. Approve submission of an application for the Waste Tire Enforcement Grant (Cycle 22) for enforcement activities in FY 15/16 in the amount of \$120,000; adopt the resolution granting Board approval to sign all application documents; authorize the Director of Public Health or designee to submit all payment requests and grant activity forms; and Direct Public Health

to return to the Board if awarded.

ADOPTED RESOLUTION NO. 2015-18 AS RECOMMENDED AYES: ALL

MENTAL HEALTH

14. Authorize Mental Health Director to submit Mental Health Services Act Housing Program Funding release form (Enclosure 2) to receive \$8,415.64 in unencumbered funds.

APPROVED AS RECOMMENDED AYES: ALL

15. Contract with Carson Senior Assisted Living for residential care for consumers.

AUTHORIZED CONTRACT NO. 2015022 AS RECOMMENDED AYES: ALL

16. Contract with Plainsburg Elementary School District for placement of County clinical staff at school sites to provide mental health services, outreach and education.

AUTHORIZED CONTRACT NO. 2015023 AS RECOMMENDED AYES: ALL

HUMAN SERVICES AGENCY

17. Contract with CE Holmes Consulting, Inc. to provide design and facilitation of Community Playbook and staff training.

AUTHORIZED CONTRACT NO. 2015024 AS RECOMMENDED AYES: ALL

AUDITOR

18. Accept the audited Merced County Comprehensive Annual Financial Report and Single Audit for the fiscal year ended June 30, 2014.

APPROVED AS RECOMMENDED AYES: ALL

ELECTIONS

19. Adopt resolution to call for an election on June 23, 2015 to fill the Merced County Employees' Retirement Association Board seat set to expire June 30, 2015 for the #2 General Member for the new term commencing July 1, 2015.

ADOPTED RESOLUTION NO. 2015-16 AS RECOMMENDED AYES: ALL

20. Approve the request from the Delhi County Water District to change the district's election date from November of the odd numbered years to consolidate the election with the November statewide general election in the even numbered years.

APPROVED AS RECOMMENDED AYES: ALL

WORKFORCE INVESTMENT

21. Accept Subgrant K597235 from the State initiating Wagner-Peyser funding under grant code 1017 for a Disability Employment Initiative project to provide employment-related services to people with disabilities and disability-focused training to local employers; and approve the related budget transfer. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2015025 AS RECOMMENDED AYES: ALL

DEPARTMENT ADMINISTRATIVE SERVICES

22. Declare an ambulance, miscellaneous office furniture, assorted office equipment and miscellaneous supplies identified on Exhibit A as Surplus Property as recommended and authorize its disposal by approved internet public auction.

APPROVED AS RECOMMENDED AYES: ALL

PROBATION

23. Approve the acceptance of the Edward Byrne Memorial Justice Grant allocation from the Board of State and Community Corrections for a total allocation of \$179,535 for the period of March 1, 2015 through December 31, 2017; approve the resolution authorizing acceptance of the grant; and approve the related budget transfer. (4/5 Vote Required)

ADOPTED RESOLUTION N O. 2015-17 AS RECOMMENDED AYES: ALL

COMMUNITY AND ECONOMIC DEVELOPMENT

24. Contract with Wright Solar Park, LLC a Delaware Corporation for the CUP12-017 for the Wright Solar PV Project (CUP12-017).

AUTHORIZED CONTRACT NO. 2015027 AS RECOMMENDED AYES: ALL

COUNTY EXECUTIVE OFFICE

25. Authorize Risk Management, in conjunction with Administrative Services, to prepare and release a Request for Proposal (RFP) for Workers Compensation Claims Third Party Administrator services for Merced County; select the most responsive provider for such services; and negotiate an agreement to return to the Board for contract approval.

APPROVED AS RECOMMENDED AYES: ALL

26. Approve the 2015 Legislative Agenda with any revisions as recommended by the Board of Supervisors; authorize the Chairman and County Executive Officer to periodically provide letters of support or opposition as needed based on any benefit or detriment to the County of Merced; and direct staff to forward the 2015 Legislative Agenda to the County's legislative representatives and advocates.

APPROVED AS RECOMMENDED AYES: ALL

27. Recognize April 12-18, 2015 as National Volunteer Week; direct staff to coordinate applications, nominations and the screening committee; set March 27, 2015 as the deadline to receive applications/nominations; and set May 5, 2015 as the date for awarding the Volunteer Recognition and Service Program certificates.

APPROVED AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

28. Authorize \$500 of District One's Special Board Project Funds to be forwarded to Great Valley Center to support the American Leadership Forum.

APPROVED AS RECOMMENDED AYES: 1, 2, 4, 5 NOES: 3

BOARD APPOINTMENTS

29. Appoint Kimiko Vang, representing Human/Social Services, to serve as a member of the Advisory Board on Alcohol and Other Drug Problems, serving at the Pleasure of the Board.

APPROVED AS RECOMMENDED AYES: ALL

30. Reappoint Joann Machado and John Herkert to serve as members of the Winton Cemetery District, until February 18, 2019.

APPROVED AS RECOMMENDED AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE

AYES: ALL

31. Public Works re: Contract No. 2014138 awarded to Avison Construction of Madera, CA in the amount of \$453,533 for the Main Administration Building Parking Lot Rehabilitation Project.
32. Community and Economic Development re: Lease agreement issued to Tulare Aircraft Services for Building 1529 (approximately 3,000 sq. ft.) located at Castle Commerce Center.
CONTRACT NO. 2015028
33. Community and Economic Development re: Bill of Sale for the furniture transfer from AT&T Service Inc. to the County of Merced, including 766 Steel Case 9000 Series Agent workstations and 48 Steel Case 9000 Series Manager workstations from 1910 Airmail Drive (Base Exchange, Bldg #759) and 1920 Airmail Drive (Commissary, Bldg #765).
CONTRACT NO. 2015029
34. Cal OES re: U.S. Small Business Administration and U.S. Dept. of Agriculture designation of the following counties as disaster designation due to drought severity levels for the primary counties of: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba, and the contiguous counties of Del Norte, Imperial, and San Francisco.

THE BOARD ADOPTED RESOLUTIONS IN MEMORY OF MARY HERNANDEZ, ROGER KAHL, BILL SMITH, MINNIE FERRERO, LUCAS HUKILL, AND JERRY J. ANTONETTI AND ADJOURNED THE MEETING UNTIL TUESDAY, MARCH 17, 2015, AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – MARCH 3, 2015

10:00 A.M. SCHEDULED ITEM **2015-03-03 PUBLIC OPPORTUNITY**

Alan Spencer comments on Officers parking where they are not suppose to and he has not received a response yet regarding his complaint.

Anthony Roggero states concerns on water levels.

James Hodges comments on CBS News on global warming.

Phil Coba, ASUCM University Merced Student, comments on the bike lane at Lake Road being unsafe and no lighting at Bellevue Road. Mr. Coba submits a copy of a Resolution in Support of the Future Cycling Paths to Campus.

Michael Walkman comments on the bike path on Lake Road and the heavy traffic in the area is unsafe.

Peter Howell states the bike paths on Bellevue Road need improvements. He also states he has contacted the City regarding the issue and is surprised the County has not fixed the issue.
Present: Pedrozo, Walsh, McDaniel, Kelsey, O'Banion

10:00 A.M. SCHEDULED ITEM **2015-03-03 COMMUNITY AND ECONOMIC DEVELOPMENT – PUBLIC HEARING**

The time and date previously set for a public hearing to consider Zone Change No. ZC13-002 and related Zone Change Ordinance and Administrative Application No. AA13-029 (Andersen Nut Walnut Storage Building Project).

Director of Community and Economic Development Mark Hendrickson reviews the staff report.

Planner Brian Guerrero gives a powerpoint presentation reviewing: Project Description, Vicinity Map, Site Aerial photo, Site Plan, Site Photos, General Plan and Zoning, Environmental Review, Public Comments, Planning Commission, and Project Action.

The Board has brief discussion regarding job creation.

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

James Hodges speaks regarding potentiall problem with dust.

John Mitchell, Livingston farmer, questions if purpose of this action is for expansion of walnut production.

The Chairman closes the public hearing.

Supervisor Kelsey states this creates job security in Gustine and there is no real opposition to the change.

Upon motion of Supervisor Kelsey, seconded by Supervisor O'Banion, duly carried, the Board Adopts the Initial Study/Mitigation Negative Declaration for Zone Change No. ZC13-002 and Administrative Application No. ZC13-002; approves Zone Change No. ZC13-002 and Administrative Application No. AA13-029 based on the listed findings and subject to the conditions of approval and mitigation measures; approves the Mitigation Monitoring and Reporting Program; and adopts Zone Change Ordinance No. 1928:

Project Findings:

1. Zone Change No. ZC13-002 proposes to change the zoning designation from R-1 (Single-Family Residential) to A-1 (General agricultural) for two parcels totaling 6.94 acres.
2. Administrative Application No. AA13-029 proposes to construct four 12,000 square foot and one 9,000 square foot walnut storage buildings in five phases on 6.94 acres.
3. The project site is located on the north side of Sullivan Road, 300 feet west of Hunt Road in the Gustine area.
4. The application is directly associated with on-site agricultural operations and is consistent with the General Plan. The project is only consistent with the Zoning Code upon approval of the zone change application.
5. The project is compatible with adjacent land uses, and properties.
6. The application was referred to the following County agencies for review: Building Division, Division of Environmental Health, Fire Department, and the Department of Public Works/Roads Division.
7. The application was also referred to the following local and State agencies: Central Valley, Regional Water Quality Control Board, California Department of Fish and Wildlife, San Joaquin Valley Air Pollution Control District, City of Gustine, and the Gustine School District
8. The project, as conditioned, will not be a nuisance or detrimental to public health and safety.
9. Notice of the application was published in the Merced County Times and mailed to property owners within 300 feet of the project site in accordance with State Law.
10. The application is subject to all applicable County, State and Federal regulations.

Conditions of Approval – AA13-029

Community and Economic Development Department

1. Zone Change No. ZC13-002 is granted to change the zoning designation from R-1 (Single-Family Residential) to A-1 (General agricultural) for APNs 021-062-002 and 021-062-003 totaling 6.94 acres.
2. Administrative Application No. AA13-029 is granted to construct four 12,000 square foot and one 9,000 square foot walnut storage buildings on 6.94 acres in five phases.
3. The project shall operate in a manner that is consistent with the approved Plot Plan and the applicant's Operational Statement. Minor Modifications may be approved by the Development Services Director upon submittal of an acceptable application.
4. The applicant shall install Type A landscape screening along the boundaries of the project site consistent with Figure 18-10 of Section 18.38 with modifications to include drought tolerant species. Additionally, the applicant shall install landscape buffers to delineate the parking area as well as install fencing along the perimeter of the project site to delineate between uses. The applicant shall work with the Community and Development Department to ensure the landscaping plans are appropriate and satisfy the City of Gustine's intent. Landscaping and screening plans shall be approved by the Community and Economic Development Department prior to implementation of any planting or construction of screening (fences, berms, walls, etc.).
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$648.00** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant / property owner at the established hourly rate at the time of the inspection. This permit will not be considered valid until the conditions monitoring fee has been paid.
6. The applicant shall comply with all applicable County, State and Federal regulations. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning, Commerce, Aviation, and Economic Development, and Public Works Departments.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Dan and Brian Andersen has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of Dan and Brian Andersen.

Dan and Brian Andersen's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of Dan and Brian Andersen, their agents, subcontractors,

employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. Dan and Brian Andersen will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following GPA13-001, ZC13-002, and AA13-029 approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Department of Public Works/ Roads Division

7. The applicant shall satisfy Improvement Level 2 requirements with future building permits associated with this project.

Division of Environmental Health

8. The applicant shall maintain a Hazardous Materials Business Plan and maintain compliance with all applicable hazardous materials regulations.

Public Works/Building and Safety Division

9. Building Permits shall be obtained prior to any construction activities. Submitted plans shall be completed and stamped by a licensed engineer. A soils report will most likely will be required.

Fire Department

10. All driveways accessing the parcels shall be surfaced with an approved all weather driving surface materials. Driveways shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.
11. All driveways accessing roads shall have an unobstructed width of not less than 20 feet except for approved security gates and an unobstructed vertical clearance of 13 feet 9 inches. The applicant shall comply with the attached letter regarding Building Permit No. BP2010-0933 regarding High Piled Storage Requirements, Fire Department Access & Water Supply Requirements and the Installation of a "Knox" box. Please contact Hank Moore, Fire Marshall at (209) 385-7344 for any questions.
12. If security gates are installed they shall be approved by the Fire Department, including the installation of a Merced County coded "Knox" key switch of "Knox" padlock, whichever is most appropriate.
13. All projects shall meet the fire flow requirements as per California Fire Code. In addition, all options shall be approved by the Fire Department.

14. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, building or portions of buildings are hereafter constructed or moved onto the property.

City of Gustine

15. The applicant shall provide fencing around the perimeter of the project, except along the street frontages.
16. Natural screening such as a hedge shall be provide along the west and north property line of APN 021-062-002 and along the north property line of APN021-062-003.
17. All lighting shall be shielded so that no light or glare will spill onto adjacent properties.
18. The City of Gustine shall be notified of all future phases of the project.
19. The City of Gustine shall be provided the opportunity to comment on any operational changes that may occur on the project site

San Joaquin Valley Air Pollution Control District

20. The proposed project may be subject to District Rules and Regulations including: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated or demolished or removed, the project may also be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants). To identify other District Rules or Regulations, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888.

Mitigation Measures

21. Mitigation Measure AES-1: Installation of fencing and screening.
22. Mitigation Measure AES-2: minimize light pollution and spillover.
23. Mitigation Measure AQ-1: Coordinate with SJVAPCD on additional applicable rules and regulations.
24. Mitigation Measure CUL-1: Discovery and treatment of unanticipated buried cultural or paleontological resources.
25. Mitigation Measure CUL-2: Discovery and treatment of human remains.
26. Mitigation Measure HYD-1: Submission of permit registration documents and compliance with Construction General Permit Order 2009-0009-DWQ to SWRCB.
27. Mitigation Measure TRA-1: Satisfy level 2 improvements per Public Works or enter into deferment agreement.

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

10:00 A.M. SCHEDULED ITEM
2015-03-03 PUBLIC WORKS – PUBLIC HEARING

The time and date previously set for a public hearing to consider adoption of a resolution forming Underground Utility District No. 12 on Dan Ward Road in the Franklin-Beachwood Area.

Director of Public Works Dana Hertfelder reviews the staff report.

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 O'Banion, seconded by Supervisor Kelsey, duly carried, the Board Adopts Resolution No. 2015-13 forming Underground Utility District No. 12 along Dan Ward Road between Franklin Road and Beachwood Drive.

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

10:00 A.M. SCHEDULED ITEM
2015-03-03 COUNTY EXECUTIVE OFFICE – PUBLIC HEARING – FIRST READING OF PROPOSED ORDINANCE

The time and date previously set for a public hearing to consider First Reading of a proposed ordinance entitled "An Ordinance to Prevent the Mining and Export of Groundwater within the Unincorporated Areas of Merced County"; and set Second Reading and possible adoption for March 17, 2015 at 10:00 a.m.

The Clerk announces two Supplemental documents were received and are available for the public.

County Executive Officer Jim Brown reviews the staff report and powerpoint presentation covering Background of the Ordinance, Process, and Groundwater Findings.

Sarge Green reviews Contours of Corcoran Clay, Land Subsidence and Changes in Groundwater Springs and Elevation.

Mr. Brown continues with Ordinance Overview and Sub-basins.

Mr. Green concludes with review of Exemptions.

Mr. Brown concludes with review of Legislation and Bridge to Transition to Groundwater Sustainability Agency's (GSA). Mr. Brown also states there is a challenge in compliance due to staffing issues.

The Board has further discussion regarding exemptions.

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

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

Anthony Roggero, El Nido resident, states concerns on the decreasing water levels.

Ken Angel of Portola Valley states he is impressed with what Merced is doing about the water situation and comments on GSA's and state agencies controlling water.

Tom Stillman, Merced County Farmer, comments on the ordinance not affecting existing wells.

Yolanda Carillo, Los Banos resident, states concerns with decreasing water levels in her area.

James Hodges states concerns with the total amount of water in the ground 100 years ago to what we have currently.

Bob Weimer speaks on drought and the export of water out of Del Puerto and taxes. Mr. Weimer submits comments for the record.

Kathy Weber, Snelling League of Women Voters representative, questions wording on the proposed ordinance regarding exemptions and groundwater mining.

Amanda Priest, Executive Director Farm Bureau, states she supports language in the proposed ordinance and the Farm Bureau would like to stay involved.

John Mitchell, Livingston resident, comments on sanctions on individuals pumping without approval and other projects going on without permits.

Fernando Chavirria, Atwater resident, comments he is worried about the Hispanic community losing jobs due to drought.

Derek Harland comments on youth to work and exporting of water causing damage.

The Chairman asks for Mr. Green to respond to some of the comments.

Mr. Green comments on the wording of the permit, and states all activity without a permit is prohibited.

Upon motion of Supervisor Kelsey, seconded by Supervisor O'Banion, duly carried, the Board sets the second reading and possible adoption of the proposed ordinance for March 17, 2015 at 10:00 a.m.

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

1:30 P.M. SCHEDULED ITEM

2015-03-03 COMMUNITY AND ECONOMIC DEVELOPMENT – PUBLIC HEARING

The time and date previously set for a public hearing to consider proposal to construct a Solar Photovoltaic Electrical Generation Facility in the Santa Nella area (Wright Solar Park Project).

Director of Community and Economic Development Mark Hendrickson reviews the staff report.

Deputy Director of Community and Economic Development Oksana Newman states the construction job will create 600 jobs with 6 being full time jobs. Ms. Newman reviews powerpoint presentation regarding: Project Description, Vicinity Map, Site Photos, Site Plan, General Plan Consistency, Zone Code Consistency, Williamson Act, Farmland, Williamson Act Consistency, Environmental Review, Planning Commission, Conditions of Approval, and Board Action.

Al Solis, Sol Development Associates, (Represents Applicant-Frontier Renewables), gives a powerpoint presentation on the Wright Solar Park Project covering the Management Team, Project Overview. Economic & Community Benefits, and Environmental Mitigation Strategy.

Balduin Hesse, Chief Executive Officer of Frontier Renewables, continues powerpoint presentation with an overview of the company which is based in Germany.

Reinhard Hesse, Chief Developer of Frontier Renewables, provides comments regarding the site.

Troy Rahmig, Consultant from the San Jose Team working on the EIR, concludes the presentation with review of the endangered species act and states they have a draft wildlife conservation plan and a separate permit being sought from Fish and Game which should be finalized in the next few weeks.

Supervisor Walsh questions the timeframe of the project.

Mr. Hesse states 12 to 18 months.

Supervisor Walsh asks if they will be hiring local workers.

Ms. Newman states contractors are not selected yet.

Supervisor Kelsey questions where turn lanes will be placed.

Tom Fitzgerald clarifies the placement of the lanes.

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

Dominique Arotzarena Jr., project owner, states the property has been passed down in his family over the years for farming but after drought, farming has changed. Mr. Arotzarena states he was approached in 2010 by Mr. Hesse regarding the solar project and would like support from the Board on the project.

Billy Powell states he is in support of the solar project and also states Electrical Works Local 684 of Modesto is in support of the project also.

The Chairman closes the public hearing.

Upon motion of Supervisor Kelsey, seconded by Supervisor McDaniel, duly carried, the Board certifies the Final Environmental Impact Report based on the listed 3 findings contained in the March 3, 2015 Board Staff Report; approves Conditional use Permit No. CUP12-017, based on the listed 11 Project Findings and subject to the listed 23 Conditions of Approval, including 52 CEQA Mitigation Measures listed in Submittal #13; adopts the February 2015 Revised CEQA Environmental Findings of Fact and Statement of Overriding Considerations; approves the February 2015 Revised Mitigation Monitoring and Reporting Program; removes the Project site from the Merced County Williamson Act Agricultural Preserve; approves the Tentative Partial Cancellation of the Project Site Williamson Act Contracts; and adopts Resolution No. 2015-14 for Tentative Partial Cancellation of Williamson Act Contracts:

Project Findings:

1. Conditional Use Permit Application No. CUP12-017 proposes the development and operation of a 200-megawatt (MW) solar photovoltaic (PV) power plant located on approximately 2,730.55 acres of leased and purchased agricultural lands in unincorporated Merced County.
2. The project site is located approximately 4.5 miles southeast of Santa Nella, southwest of the intersection of Interstate (I-)5 and State Route (SR) 33/152, on the south side of Billy Wright Road. The project site consists of 13 parcels of land that are separately identified on page 2-3 of the Draft Environmental Impact Report.
3. The project site is designated Foothill Pasture land use in the General Plan and zoned A-2 (Exclusive Agricultural).
4. The application is consistent with the Agricultural land use designation and with the following applicable elements of the 2030 Merced County General Plan, specifically; the Land Use Element, the Transportation and Circulation Element, and the Natural Resources Element.
5. 1,278 acres of the project site (divided across all or part of 5 separate tax parcels) are under Williamson Act Contract. The remaining land (1,452.55 acres) is designated as part of the Williamson Act Agricultural Preserve. Removal of this land from Williamson Act Contract, while in conflict with Policy AG-3.11 of the General Plan Agricultural Element, advances the public interest based upon the substantial benefits associated with the increased provision of renewable energy.
6. The Zoning Code allows for the location and operation of energy generation facilities producing power for off-site use in the A-2 (Exclusive Agricultural) zone with the review and approval of a Conditional Use Permit Application.
7. The project is in compliance with all applicable development standards for the A-2 zone.
8. The project as conditioned is compatible with adjacent land uses and properties.
9. The proposed use, if operated in compliance with the Project Description provided in Chapter 2 of the Draft Environmental Impact Report (including the Site Plan) and recommended conditions of approval (including all CEQA Mitigations), will not be a nuisance or detrimental to the public health, safety and general welfare.
10. The application was referred to the following state, federal, county, other public agencies, private agencies, and businesses for review: Department of Public Works Building and Safety Division, Department of Public Works Road Division, Department of Health Division of

Environmental Health, Merced County Fire Department, Bureau of Reclamation, United States Army Corps of Engineers, United States Fish and Wildlife Service, City of Los Banos, University of California Cooperative Extension, Merced County Farm Bureau, San Joaquin Valley Air Pollution Control District, Regional Water Quality Control Board, California Department of Conservation, California Department of Transportation, California Department of Fish and Wildlife, California Department of Parks and Recreation, California Energy Commission, Public Utilities Commission, State Lands Commission, Central Valley Flood Protection Board, California Department of Water Resources, California Highway Patrol, California Air Resources Board, State Water Resources Control Board (Division of Water Quality), The Native American Heritage Commission, Adams, Broadwell, Joseph and Cardozo, Science Applications International Corporation, Kate Kelly Group, Santa Clara County, San Luis Water District, San Joaquin River Exchange Contractors, Aspen Environmental Group, Western Power Administration, Grassland Water District, Chevron Pipe Line Company, Center for Biological Diversity, Natural Resource Strategic Services, Cardno Entrix, and PG&E.

11. The public hearing has been adequately noticed and advertised.

Conditions of Approval – CUP12-017

Community and Economic Development Department

1. Conditional Use Permit Application No. CUP12-017 is granted to allow the construction and operation of a 200 megawatt solar voltaic power plant located on approximately 2,730.55 acres of agricultural land in unincorporated Merced County. The project is located on 13 parcels of land that are separately identified on page 2-3 of the Draft Environmental Impact Report.
2. The solar photovoltaic electrical generating facility and project shall be located, developed and operated in a manner described on the approved Plot Plan, Project Description, Decommissioning and Reclamation Plan, CEQA Mitigation Measures, Mitigation Monitoring and Reporting Program, and Conditions of Approval of this permit. The operation of this facility shall cease no later than 30 years from the Commercial Operation Date. Any subsequent changes must be made in accordance with Merced County Code section 18.50.
3. The project shall comply with all applicable public health, safety, and welfare regulations administered by the County of Merced.
4. The applicant shall construct, sign, and stripe a minimum of seven permanent parking spaces, including one handicapped parking space, immediately adjacent to the proposed Operations and Maintenance Building. This parking area shall be completed prior to the issuance of any certificate of occupancy for the building.
5. Prior to issuance of a building permit, the project applicant must obtain all necessary permits and written authorizations and must demonstrate compliance with all applicable regulations administered by Federal and State agencies.
6. No later than 60 days prior to the commencement of any site preparation activities, the project owner shall submit a construction parking and circulation plan for review and approval by the Department of Public Works and Community and Economic Development Departments. Such plan shall include a Transportation Demand Management Plan consistent with the guidance found in Caltrans' 2009 *Transportation Management Plan Guidelines* to the extent applicable." Upon review of the project owner's construction staging, parking and circulation plan, the Public Works Director, in his discretion, has the authority to adjust the timing for completion of Transportation/Traffic mitigation measures so long as they

are completed prior to occurrence of the significant transportation or traffic impacts the mitigation measures are designed to address (e.g., peak construction employment).

7. Any proposals to add new signs, or modify existing signs, must meet the sign standards for the A-1 Zone provided in Section 18.42 of the Zoning Code.
8. No later than 60 days prior to the proposed commencement of any site preparation activities, the project owner shall enter into an agreement with the County that provides for the full funding of all project mitigation monitoring, coordination, and inspection activities required through approval of this conditional use permit application. Such agreement shall provide for the full reimbursement of all reasonable county expenses and identify the Community and Economic Development Department as the coordinating agency responsible for processing of consultant contracts, billing, and liaison with other county departments.
9. Approval, construction, and operation of the Wright Solar Park project (Conditional Use Permit No. CUP12-017) is subject to implementation of all the CEQA Mitigation Measures identified in the adopted Project Environmental Impact Report and Mitigation Monitoring and Reporting Program. All CEQA Mitigation Measures are adopted by reference as Conditions of Approval. Non implementation of any adopted mitigation measure, without the prior written consent of the County and any affected or responsible agency and approval of any necessary environmental studies, shall be grounds for reconsideration of permit approval by the County. If during the final design of Transportation/Traffic mitigation measures, conditions and/or constraints are discovered that render a mitigation measure infeasible, the County shall review and approve equally effective alternate measures to address the relevant impact.
10. At the discretion of the Board of Supervisors, renewal of Conditional Use Permit CUP12-017 may be required after 20 years of facility operation. Notice of such a requirement shall be mailed to the project owner no less than 6 months in advance of any review date.
11. The applicant shall obtain and maintain wildland fires insurance for the duration of the project life, with County as additional insured, until decommissioning has been completed. A copy of the policy shall be provided to the Community and Economic Development Department prior to issuance of the first building permit.
12. Immediately following the cessation of Project business operations or the abandonment of the Project, the applicant shall implement the Reclamation Plan, to decommission and reclaim the soil to fulfill the restoration.
 - a) Prior to issuance of the first building permit, and to the satisfaction of the Merced County Planning Director, applicant shall establish a Reclamation Plan Fund, including a graduated funding timeline linked to construction phases. Payments to the Reclamation Plan Fund shall commence no later than upon issuance of first Project occupancy permit.
 - b) Prior to the issuance of the first occupancy permit, the applicant shall post a performance bond to ensure completion of the activities under the Reclamation Plan.
 - i. Financial assurances for the Reclamation Plan will be reviewed annually and adjusted for inflation, as necessary, by the Merced County Planning Department to determine if finances are sufficient to perform reclamation of the Project. Financial assurances must be adjusted if, during the annual review, finances are determined, by the Merced County Community and Economic Development Department, to be insufficient to fully implement the Reclamation Plan.

It is the intent of this requirement that the Fund, along with the residual value of installed improvements, shall provide sufficient financial assurances for Merced County to

decommission the Project and fully restore the property in compliance with the San Joaquin kit fox conservation easement requirements following the cessation of business operations or the abandonment of the Project if the applicant does not properly decommission the Project and fund full reclamation.

13. Temporary uses on land not proposed to be used for project facilities and operation by limited to 50 acres.

Department of Public Works Road Division

14. Applicant shall enter into a Road Maintenance Agreement with the Department of Public Works, which stipulates that after completion of project construction activities the applicant shall restore all County roadways which were used in the transport of import material to the project site to like or better condition.
15. Applicant shall construct a rural agricultural driveway approach at each proposed access at an existing paved County road (i.e. Billy Wright Road) in accordance with Chapter 7 (Driveways) of the Merced County DPW Improvement Standards & Specifications. Said construction shall require an Encroachment Permit from DPW.

Health Department/ Division of Environmental Health

16. Any hazardous materials stored on-site over threshold quantities shall require that a hazardous materials business plan (HMBP) be filed with the Division of Environmental Health. New HMBP's must be submitted electronically at <http://cupa.co.merced.ca.us>
17. Any unused wells in the project area will be considered abandoned, under the Merced County Well Ordinance, and will need to be destroyed under permit from MCDEH.

Public Works Department/ Building and Safety Division

18. The applicant shall hire an architect or engineer licensed in the state of California to draw the plans for the proposed system. The plans must be submitted to the Building Division for approval and a permit before any construction can begin.
19. California requires that all proposed commercial structures must first obtain a soils report completed by a licensed geotechnical engineer. That report must be reviewed by the building design engineer to incorporate any mitigating measures into the design drawings. Two copies of the report must also be submitted as part of the building permit application.
20. Prior to the submittal of any building permit application, the applicant shall schedule a meeting with the Building Division to determine the best method of submittal for building permits and agree specific submittal requirements for the required permits.

Merced County Fire Department

21. All access driveways should be paved with an approved all weather driving surface and be at least 20 feet in width. Any security gates shall be approved by the Fire Department prior to installation.
22. The project shall meet fire flow requirements as identified in the California Fire Code.

23. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Wright Solar Park LLC and Frontier Renewables LLC have the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of both Wright Solar Park LLC and Frontier Renewables LLC.

Wright Solar Park LLC and Frontier Renewables LLC's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of Wright Solar Park LLC and/or Frontier Renewables LLC, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. Wright Solar Park LLC and Frontier Renewables LLC will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following Project approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Ayes: Pedrozo, Walsh, McDaniel, Kelsey

Not present: O'Banion