



**MERCED COUNTY
BOARD OF SUPERVISORS**

SUMMARY ACTION MINUTES

Regular Meeting
TUESDAY, AUGUST 14, 2001
Closed Session – 8:30 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

CHAIR GLORIA CORTEZ KEENE.....DISTRICT 1
KATHLEEN M. CROOKHAM.....DISTRICT 2
JOE RIVERO.....DISTRICT 3
DEIDRE F. KELSEY.....DISTRICT 4
JERRY O'BANION.....DISTRICT 5
Lydia A. Beiswanger, Chief Clerk

DEMITRIOS O. TATUM
ACTING COUNTY ADMINISTRATIVE OFFICER

DENNIS MYERS
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.
(209) 385-7366*

SCHEDULED ITEMS

8:30 A. M.

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

CLOSED SESSION – It is the intention of the Board to meet in Closed Session pursuant to Subdivision (e) of Section 54957:
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Acting County Administrator

THE BOARD RECONVENED AT 10:00 A.M. AND THE CHAIRMAN ADVISED DIRECTION WAS GIVEN TO STAFF

10:00 A. M.

PLEDGE OF ALLEGIANCE

INVOCATION

Rev. David Britton – Good Tidings Assembly of God, Delhi

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 (See Board Clerk - Testimony limited to five minutes per person)

The following speak: Fred Buckingham representing United Way

UC MERCED PROJECT - Liaison Report

RECEIVED REPORT FROM UC LIAISON KATHLEEN CROOKHAM

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 – 14)

APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:30 A. M.

PUBLIC WORKS – PUBLIC HEARING

To consider Sole Sourcing an Energy Retrofit Contract with Siemens Building Technologies for Eleven Merced County Facilities in compliance with Government Code Section 4217.13

REVIEW BOARD ORDER – SEE PAGE 9

APPROVED AS RECOMMENDED AYES: ALL

PUBLIC WORKS - Accept the Siemens Building Technology, Inc. Final Energy Conservation Measures Report; approve the total estimated construction project budget of \$1,996,862 and authorize contract to provide energy retrofit and facility upgrade measures to eleven Merced County buildings; approve receipt of the California Energy Commission (CEC) loan for \$1,900,345 and adopt Resolutions to apply for CEC loan and a CEC/Xenergy Grant in the amount of \$34,750

REVIEW BOARD ORDER – SEE PAGE 9

APPROVED RECOMMENDATIONS AND ADOPTED RESOLUTION NOS. 2001-151 (CEC Loan) AND 2001-152 (CEC Grant) AYES: ALL

PLANNING – PUBLIC HEARING

To consider an Appeal submitted by Bud Raymond to Planning Staff Determination that County Policy requires a subdivision provide space for a one-acre Park in Franklin-Beachwood in connection with Major Subdivision Application No. 01001-Hollywood Park

REVIEW BOARD ORDER – SEE PAGE 10 AND 11

TOOK ACTION TO DENY THE APPEAL AYES: 1, 2, 4, 5 NOES: 3

10:30 A.M.

REPORTS/BOARD DIRECTION

County Administrator
County Counsel
County Auditor
Board of Supervisors Members

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 14)

APPROVED AS RECOMMENDED AYES: ALL

Claims for Damages

1. Act on Claims for Damages submitted by Anel Nolasco, Jennifer Harris and Michael Harris as recommended by Risk Management.

Public Works

2. Authorize United Way of Merced County to use Courthouse Park on August 24, 2001 from 11:00 a.m. to 2:00 p.m. to sell lunches to kick off the United Way Campaign Drive subject to providing the County of Merced with a Certificate of Insurance for Comprehensive General Liability, including Product Liability in the amount required by Risk Management.
3. Set public hearing for August 28, 2001 at 10:30 a.m. to consider Proposed Ordinance to consider a Fee Schedule for use of New Upgraded Telecommunications Infrastructure at Castle Airport and Aviation Development Center.
4. Set public hearing for September 11, 2001 at 10:30 a.m. to consider Proposed Ordinance relating to the Establishment of Sewer and Water Use and Connection Fees at Castle Airport and Aviation Development Center.

Business-Economic Opportunities

5. Set public hearing for August 28, 2001 at 10:30 a.m. to consider Proposed Ordinance to Establish Fees for Assisting Businesses in Accessing Employment Training Panel Funds.

Public Works

6. Approve and authorize Public Works Director to sign Amendment to Contract No. 9944 with Herschy Environmental to continue monitoring, testing and sampling of soils and groundwater in the Gustine and Los Banos Corporation Yards.

Health

7. Approve Child Health and Disability Prevention Program and California Children's Services Program Plans and Budgets for FY 2001/2002.
8. Approve and authorize Chairman to sign Renewal Contract No. 7325 with Human Services Agency and Probation for Interagency Agreement for Child Health and Disability Prevention Program.

Mental Health

- 9. Approve and authorize Chairman to sign Renewal Contract No. 7994 with Client Development Programs, Inc. to provide employment, case management and drop-in center services to consumers.
- 10. Approve and authorize Chairman to sign Renewal Contract No. 99180 with Public Defender Department for assistance and representation to indigents required by Superior Court and for Lanterman-Petris-Short Act Conservatorship.
- 10a. Approve and authorize Chairman to sign Renewal Contract No. 2000159 with Unilab Corporation for Laboratory Services.
- 10b. Approve and authorize Chairman to sign Renewal Contract No. 8058 with Fresno Care and Guidance for services provided to consumers residing in the facility.

Sheriff

- 11. Approve and authorize Chairman to sign Renewal Contract No. 2349 with Merced Pathology Medical Group, Inc. for all pathological/autopsy services concerning Coroner issues.

District Attorney

- 12. Approve and authorize Chairman to sign Extension to Contract No. 200113 with Marilyn Anhalt for Consultant Services for the transition of the Family Support Division from District Attorney to a new county department of Child Support Services.

Human Services Agency

- 13. Approve and authorize Chairman to sign Amendment to Contract No. 200057 with Merced County Action Business Center for economic development outreach consistent with the Job Creation Plan.

Board Recognition

- 14. Authorize presentation of plaque to Earl and Jean Wong in celebration of their 50th Wedding Anniversary.

REGULAR CALENDAR

BOARD ACTION

HEALTH

- 15. Contract with Harder+ Company on behalf of the Children and Families Commission for Project Evaluation Services in an amount not to exceed \$104,646.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2001175 AYES: ALL

PUBLIC WORKS

- 16. Approve Amendment to Contract No. 2000170 with Kitchell for Construction Management for the Construction of Phase II of the Juvenile Justice Correctional Complex for a not-to-exceed amount of \$172,800 for a total revised Contract Amount of \$680,510.

APPROVED AS RECOMMENDED AYES: ALL

17. Adopt Plans, Specifications and Working Details for the Castle Fiber Optics Equipment Room Remodel in Building No. 1015 at Castle Airport with a total estimated project budget of \$80,000; set bid opening for August 30, 2001 at 3:00 p.m.; authorize Public Works Director, after coordination with EDA Grant Project Manager and EDA, to award contract providing within established budget and authorize Chairman to sign Contract with information to come back to the Board.

APPROVED AS RECOMMENDED AYES: ALL

SHERIFF

18. Authorize General Services to purchase the approved Community Volunteer Badges from the Sun Badge Company, which is a current badge provider to the Sheriff Department.

APPROVED AS RECOMMENDED AYES: ALL

AUDITOR

19. Review, approve and file the Supplemental Law Enforcement Services Fund (SLESF) Report.

APPROVED AS RECOMMENDED AYES: ALL

GENERAL SERVICES

20. Resolution authorizing Merced County to participate in the California State Agency Surplus Property Program.

APPROVED AND ADOPTED RESOLUTION NO. 2001-149 AYES: ALL

PLANNING

21. Authorization to release Request for Proposal for the Environmental Impact Report on the Santa Fe Aggregates mine expansion.

APPROVED AS RECOMMENDED AYES: ALL

FIRE

22. Resolution authorizing Chairman to sign Contract with Calif. Dept. of Forestry to accept the \$5,000 Rural Community Fire Protection Grant to be used to purchase personal protective equipment/Nomex hoods and structural helmets.

ADOPTED RESOLUTION NO. 2001-150 AND AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2001176 AYES: ALL

BUSINESS-ECONOMIC OPPORTUNITIES

23. Approve a Request for Joint Venture Proposal No. 5658 Contract Award for Categories A. 1-5 to Crescent Consulting LLC; make Finding, based on evidence in the record, that the provision of special services described in the proposed contracts will not adversely impact the provision of similar services by private sector companies or individuals within the County; authorize the Chairman to sign the FOCUS Contract Award Announcement Letter and authorize General Services to utilize such services/products as defined under this FOCUS contract.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2001177 AYES: ALL

24. Approve the Foreign Trade Zone No. 226 Tariff Schedule Adjustment as submitted.
APPROVED AS RECOMMENDED AYES: ALL

PRIVATE INDUSTRY TRAINING DEPARTMENT

25. Application for Department of Labor H-1B Technical Skills Training Grant Program to provide funding for training programs that prepare workers to take advantage of new technology-related and high skills employment opportunities understanding if Grant is awarded to Merced County, P.I.T.D. will return to the Board for approval of the Contract to implement the Project.
APPROVED AS RECOMMENDED AYES: ALL

HEALTH

26. Set September 26, 2001 at 10:00 a.m. as the date and time for the Annual Joint Meeting of the Board of Supervisors and the Mercy Medical Center Merced Governing Board.
APPROVED AS RECOMMENDED AYES: ALL

COMMUNITY ACTION AGENCY

27. Approve and authorize CAB Chair to sign Contract with San Benito County for provision of Weatherization Assessment services by CAA from July 23, 2001 through December 31, 2001.
APPROVED AS RECOMMENDED AYES: ALL

ADMINISTRATION

28. Authorize extension of Contract with Acclamation Insurance Management Services (AIMS) no later than January 31, 2001 and approve issuance of Request for Proposal by General Services no later than October 15, 2001.
PULLED – NO ACTION TAKEN

UC MERCED PROJECT

- 28a. Authorize transition of County Administrative Officer to UC Merced Project Director and approve a amended Letter of Agreement effective August 13, 2001.
REVIEW BOARD ORDER – SEE PAGE 11
APPROVED AS RECOMMENDED AYES: 1, 2, 3, 4 NOES: 5

APPOINTMENTS

29. Board of Supervisors re: Committees/Commissions and Board Recommendations.

BOARD INFORMATION AND POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

30. Public Works re: Notice of Award of Contract to Foothill Associates for Design, Relocation/Construction and Monitoring of Vernal Pools RFP associated with Highway 59 Landfill Expansion Project.
AUTHORIZED PUBLIC WORKS DIRECTOR TO SIGN CONTRACT NO. 2001134

31. Private Industry Training Department re: PITD Report dated July/August 2001.
32. State Dept. of Transportation re: Notice of Preparation of a Draft Environmental Impact Report/Environmental Assessment for Project located on State Route 140 in Merced County from Post Mile 36.2, within the City of Merced, to PM 38.0, east of the City. Caltrans proposes to construct a new bridge to replace the Bradley Overhead, spanning the Burlington Northern Santa Fe Railroad. This improvement would correct the deficiencies of the existing facility such as restricted stopping sight distance, lack of shoulders and inadequate corner sight distance.
33. State Dept. of Wildlife Conservation Board re: Notice of consideration of acquisition of 67+/- acres of wildlife habitat located in Merced County and identified as APN 084-010-062 – Los Banos Wildlife Area, Mud Slough Unit, Expansion 3.
34. State Dept. of Wildlife Conservation Board re: Notice to consider a project to restore more than 1,000 acres of wetlands, riparian habitat and associated uplands in Merced County – Wetland Habitat Restoration, East Grasslands (San Felipe Ranch) in Merced County.
35. State Dept. of Wildlife Conservation Board re: Notice to consider an allocation of funds for a grant to Ducks Unlimited, Inc. to enhance 280 acres of historic wetlands and restore 6 acres of seasonal wetlands on privately-owned properties which are located 12 miles north of Los Banos and 1 mile west of Highway 165 within the Grasslands Ecological area – Wetland Habitat Restoration, Coast Cattle Ranch in Merced County.
36. California State Lands Commission re: Request from United States Bureau of Prisons to grant a cession of concurrent criminal jurisdiction for five years over the United States Penitentiary, Atwater, California under Calif. Government Code Section 126 and Notice of Hearing set for August 24, 2001 at 10:00 a.m.
37. State Governor's Commission on Calif. Veterans Homes re: Notice of Commission seeking sites to build future Veterans Homes in various locations throughout the State; Commission will evaluate proposals from cities or counties that would like to be considered based on criteria.
38. Calif. Environmental Protection Agency and Resources Agency re: The 2001 Governor's Environmental and Economic Leadership Awards – Award Categories for Nomination.
39. U.S. Fish and Wildlife Service re: News Release – Critical Habitat for Vernal Pool Species will be Proposed under Lawsuit Settlement.
40. State Dept. of Wildlife Conservation Board re: Notice of Meeting set for August 30, 2001 and Preliminary Agenda items.
41. Calif. Dept. of Child Support Services re: Child Support Warning Notices.
42. Calif. Dept. of Child Support Services re: Customer Inquiry Response. (On file with Clerk)
43. Turlock Irrigation District re: Annual Report – 2000. (On file with Clerk)

44. State Water Resources Control Board re: Permits 13856 and 13858 (Applications 18085 and 18087 (Upper American River in Placer County))
45. State Water Resources Control Board re: Application 13130 and 12-1986 – Order approving petition for temporary transfer of water from Brown’s Valley irrigation District to the State Dept. of Water Resources.
46. State Board of Equalization re: Notice of Proposed Regulatory Action by the State Board of Equalization – Property Tax Rule 905 Assessment Electric Generation Facilities – Public Hearing set for September 12, 2001.
47. State Board of Equalization re: Notice of Proposed Regulatory Action by the State Board of Equalization – Property Tax Rule 305.3 – Application for Equalization under Revenue and Taxation Code Section 469 – Public Hearing set for September 12, 2001.
48. State Board of Equalization re: Notice of Proposed Regulatory Action by the State Board of Equalization – Property Tax Rule 206 – Assessment of Artificial Satellites – Public Hearing set for September 12, 2001.
49. State Board of Equalization re: Lassen County Assessment Practices Survey. (On file with Clerk)
50. State Board of Corrections re: Information Bulletin – County Juvenile Facility and Adult Jail Construction Grants.
51. State Dept. of Fish and Game re: Copy of letter to County Clerk in accordance with AB 3158 Environmental Filing Fees advising the State Dept. of Fish and Game’s Audits Branch will be selecting various counties for AB 3158 compliance reviews.
52. California Workforce Investment Board re: Notice of Meeting of Performance Based Accountability Committee.

ADJOURNED MEETING UNTIL TUESDAY, AUGUST 21, 2001 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – AUGUST 14, 2001

10:00 A. M. SCHEDULED ITEM

2001-08-14 PUBLIC WORKS – PUBLIC HEARING

The time and date previously set for a public hearing to consider Sole Sourcing an Energy Retrofit Contract with Siemens Building Technologies for eleven (11) Merced County Facilities in compliance with Government Code 4217.13 as submitted by Public Works.

Public Works Director Paul Fillebrown reviews the Staff Report submitted.

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

Upon motion of Supervisor O'Banion, seconded by Supervisor Rivero, duly carried, the Board determines that it is in the County's best interest to enter into a Contract with Siemens Building Technologies to install energy conservation measures at eleven (11) County owned facilities; finds that the funds for the repayment of the financing of the cost of construction and operation of the energy conservation measures are projected to be available from funding that otherwise would have been used for the purchase of electrical and other energy required by the County of Merced in the absence of the energy conservation measures.

Ayes: Cortez Keene, Crookham, Rivero, Kelsey, O'Banion

10:00 A. M. SCHEDULED ITEM

2001-08-14 PUBLIC WORKS

The time and date previously set to consider the Siemens Building Technology, Inc. Final Energy Conservation Measures Report for Energy Conservation Project for Eleven (11) Merced County Facilities as submitted by Public Works.

Public Works Director Paul Fillebrown reviews the Staff Report submitted.

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

Upon motion of Supervisor Rivero, seconded by Supervisor Crookham, duly carried, the Board accepts the Siemens Building Technology, Inc. Final Energy Conservation Measures Report; approves the total estimated construction project budget of \$1,996,862; authorizes the Public Works Director to sign Contract No. 2001174 with Siemens Building Technologies, Inc. in the amount of \$1,938,862 to provide Energy Retrofit and Facility Upgrade Measures to eleven Merced County buildings; approves receipt of the California Energy Commission (CEC) Loan for \$1,900,345 and authorizes Public Works Director to sign Contract No. 2001178 with Siemens Building Technologies for the CEC Loan; authorizes applying for a CEC Loan and to apply for a CEC/Xenergy Grant in the amount of \$34,750 authorizing the Public Works Director to sign Contract No. 2001179 with Siemens Building Technologies for the CEC/Xenergy Grant and adopts Resolution No. 2001-151 (CEC Loan) and Resolution No. 2001-152 (CEC/Xenergy Grant).

Ayes: Cortez Keene, Crookham, Rivero, Kelsey, O'Banion

10:00 A. M. SCHEDULED ITEM
2001-08-14 PLANNING – PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal submitted by Bud Raymond to Planning Staff Determination that County Policy requires a Subdivision provide space for a one-acre Park in Franklin-Beachwood in connection with Major Subdivision Application No. 01001-Hollywood Park.

Planning Director Bill Nicholson submits the Staff Report and reviews the background of the project, the community specific plan map adoption and prior hearings before the Planning Commission and the Board of Supervisors. Mr. Nicholson advises the Major Subdivision Application was scheduled for the Planning Commission action on April 11, 2001 and was removed from the agenda per the applicant's request of April 6 due to negotiations with the Merced City School District for a potential school site on the property. The applicant and school district did not reach an agreement and the District has informed Staff that they are no longer considering this site.

Planning Staff contacted the applicant's representative to determine the applicant's intentions with this application, and the applicant indicated that he would not pursue the project if a park site is required. The applicant was advised the project could be scheduled for Commission action if it included a park site or that an appeal to the Board would be necessary if he opposed the park dedication. The applicant has filed an Appeal Application and requests the Board find that the Franklin-Beachwood CSP map does not require a park site at this location. Staff believes the Board has determined that it does. The Franklin-Beachwood MAC, at their meeting of July 16, 2001, confirmed their desire for the one-acre park at this location. Therefore, this matter is before the Board as an appeal of staff interpretation to the Board.

The Chairman asks if there is anyone present that wishes to speak in favor or opposition.

Bud Raymond, applicant, appears before the Board, reviews past minutes, the State law and Ordinance No. 1090 advising he wants to be allowed to pay park and recreation fees instead of taking land.

Following a lengthy discussion, Supervisor Kelsey moves, seconded by Supervisor Crookham, the Board deny the appeal submitted by the applicant.

Following further discussion, Supervisor O'Banion requests an Amendment to the Motion that the issue be referred back to the Planning Commission. He states he does not feel that the process has been fully exhausted and it should go back through the process prior to being submitted to the Board for action.

Supervisor Crookham seconds the Amendment to the Motion.

Planning Director Bill Nicholson states this is a unique issue in that the Board amended the General Plan and at that time, designated the park site. That is different then a potential park site which is why this appeal is before the Board today.

County Counsel Dennis Myers states an appeal to a subdivision map procedure from the Planning Commission can always be appealed to the Board.

Supervisor Kelsey states when this matter goes back to the Planning Commission for consideration, the application will be for a one-acre park and she expresses concern with the amendment before the Board.

The Chairman calls for a Vote on the Amendment to the Motion.

Supervisor Kelsey and Cortez Keene vote "No". Motion carries.

Ayes: Crookham, Rivero, O'Banion

Noes: Cortez Keene, Kelsey

The Chairman calls for a Vote on the Original Motion as Amended.

Ayes: Cortez Keene, Crookham, Kelsey, O'Banion

Noes: Rivero

ACTION ITEM NO. 28A

2001-08-14 BOARD OF SUPERVISORS

The Chairman advises the Transition of the County Administrative Officer to UC Merced Project Director is before the Board for consideration.

Supervisor O'Banion states he cannot support the action before the Board and cannot understand workload reduction and an increase of 15% in pay will take place for a sole job that the individual already holds. According to information placed before the Board, it states the fiscal impact will be \$15,500 and he does not believe this is the entire impact on Merced County. Also, he further states Merced County already has in place a mechanism for an individual that desires to retire within one year and this is an additional 10%.

Following discussion, Supervisor Crookham moves, seconded by Supervisor Kelsey, to authorize the Chairman to sign an Amendment to Contract No. 10274 – Letter of Agreement with Gregory B. Wellman transitioning him from County Administrative Officer to UC Merced Project Director effective August 13, 2001.

Ayes: Cortez Keene, Crookham, Rivero, Kelsey

Noes: O'Banion