



SUMMARY ACTION MINUTES

MERCED COUNTY BOARD OF SUPERVISORS

Regular Meeting TUESDAY, MARCH 12, 2002

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

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

DEMITRIOS O. TATUM
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 - EXISTING LITIGATION:

It is the intention of the Board to meet in Closed Session concerning Existing Litigation pursuant to Subdivision (a) of Section 54956.9: County of Merced vs. Turlock Irrigation District, et al. Superior Court No. 138194

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: County Administrative Officer

THE BOARD RECONVENED AT 10:20 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED DIRECTION WAS GIVEN TO STAFF

10:00 A. M.

PLEDGE OF ALLEGIANCE

Le Grand 4-H Group leads the Pledge

INVOCATION

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)

UC MERCED PROJECT - LIAISON REPORT

RECEIVED REPORT FROM UC LIAISON KATHLEEN CROOKHAM

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Public Works-Building, \$34,750 (#052); Sheriff-Corrections. \$2,817; PITD, \$300,000; Ag. Commissioner, \$4,100 and \$12,600 Public Works-CIP, \$7,052 (#053) and Administration-Risk, \$60,000

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 26)

APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:30 A. M.

BOARD OF SUPERVISORS - FIRST READING - SET SECOND READING AND POSSIBLE ADOPTION FOR MARCH 19, 2002 AT 10:30 A.M.

To consider Proposed Ordinance pertaining to the Office of County Administration (Supercedes Ordinance Nos. 318, 348 and 867 and Amends Section 2 of Ordinance No. 1138 and Ordinance No. 1507 and Chapter 2.08 of the County Code)

REVIEW BOARD ORDER – SEE PAGE 8

THE BOARD WAIVED FURTHER READING AND PLACED THE PROPOSED ORDINANCE ON THE AGENDA OF MARCH 19, 2002 AT 10:30 A.M. FOR SECOND READING AND POSSIBLE ADOPTION AYES: ALL

PLANNING - APPEAL OF PLANNING COMMISSION DECISION - PUBLIC HEARING

Appeal of Denial of Zone Variance Application No. 01023 and Minor Subdivision Application No. 01057 - Richard Perez

The Applicant proposes to vary from the minimum 20 acre parcel size in the A-1 (General Agricultural) zone and divide a 7.75 acre parcel into two parcels: Parcel 1=2.75 acres, Parcel 2=5 acres. Property is located 360 feet east of Arena Way, 500 feet south of Liberty Avenue in the Livingston area.

REVIEW BOARD ORDER – SEE PAGE 8, 9 & 10

THE BOARD APPROVED APPLICATIONS AYES: 1, 2, 3, 5 NOES: 4

10:30 A. M.

HEALTH - PROPOSED ORDINANCE - FIRST READING - SET SECOND READING AND POSSIBLE ADOPTION FOR MARCH 19, 2002 AT 10:30 A.M.

To consider Proposed Revisions to Ordinance No. 1629 Establishing the Merced County Children and Families First Commission

REVIEW BOARD ORDER – SEE PAGE 10

THE BOARD WAIVED FURTHER READING AND PLACED THE PROPOSED ORDINANCE ON THE AGENDA OF MARCH 19, 2002 AT 10:30 A.M. FOR SECOND READING AND POSSIBLE ADOPTION

AYES: ALL

REPORTS/BOARD DIRECTION

- County Administrator
- County Counsel
- County Auditor
- Board of Supervisors Members

LUNCH BREAK

CONSENT CALENDAR (Items # 1-26)

APPROVED AS RECOMMENDED AYES: ALL

Budget Transfers

1. Approve Budget Transfers submitted by Spring Fair-\$6,000 and \$17,100; Health-\$1,610; PITD-\$45,000 and Ag. Commission-Weights & Measures-\$6,000 as recommended by Administration.

Travel Requests

2. Approve Travel Request submitted by District Attorney and Health as recommended by Administration.

Public Works

3. Approve plans and specifications for West Parking Lot of the Public Health Center located at 260 East 15th Street, Merced and authorize Public Works to obtain competitive bids and award construction contract to lowest responsive bidder so long as within the contract budget and return to the Board with results.
4. Approve plans and specifications for Human Services Agency HVAC Replacement at Building No. 3, authorize Public Works to advertise bid opening and return to the Board with results.
5. Adopt Resolution annexing the Monterey Pines Minor Subdivision Application No. 00001 into the Village Greens Street Lighting and Storm Drainage Maintenance Zone of Benefit 250 in County Service Area No. One.

ADOPTED RESOLUTION NO. 2002-33

6. Adopt Resolution for Summary Vacation of a portion of the streets in the Town of Amsterdam located in Sections 9 and 10, Township 6 south, Range 13 east near the City of Merced.

ADOPTED RESOLUTION NO. 2002-34

7. Accept Final Map for Monterey Pines Phase I Subdivision in the Franklin/Beachwood area.
8. Proclaim May 19 through 25, 2002 as National Public Works Week in Merced County.

Health

9. Adopt Resolution approving the submission of the Used Oil Recycling Block Grant Application, FY 2002-2003 to the California Integrated Waste Management Board in the amount of \$105,253.

ADOPTED RESOLUTION NO. 2002-35

10. Adopt Resolution approving submission of Household Hazardous Waste Grant for 2002-2003.

ADOPTED RESOLUTION NO. 2002-36

Ag. Commissioner

11. Approve and authorize the Chairman to sign the Animal Control Agreements for 2001-2002 between Merced County and the following Cities: No. 5282-City of Atwater, No. 5281-City of Dos Palos, No. 5274-City of Livingston, No. 5279-City of Los Banos and No. 99032-City of Merced.

Planning

12. Approve Subordination of Deed of Trust recorded July 28, 1999 for Maria Rodriguez Bedolla and Ruben Bedolla and authorize the Planning Director to sign.
13. Approve the Full Reconveyance for First Time Homebuyers Deferred Payment Loan provided to Cynthia Browne and authorize Planning Director to sign.

Private Industry Training Department

14. Approve and authorize Chairman to sign Amendment to Contract No. 2001103 between the Workforce Investment Board and Calif. State Dept. of Rehabilitation detailing the funding arrangement for services and operating costs.

Administration

15. Adopt Resolution stating the Board of Supervisors approval of the Merced County Arts Council's 2001-2002 Application for the State-Local Partnership Program.

ADOPTED RESOLUTION NO. 2002-37

16. Approve and authorize Chairman to sign Renewal Contract No. 6843 with Cooperative Personnel Services for purchase of examination materials/services.

Community Action Agency

17. Approve and authorize CAB Chair to sign Contract with Larry Salles for the Atwater Cherish Program Central Kitchen Facility.
18. Approve and authorize CAB Chair to sign Amendment to Contract with County of San Benito for Weatherization Assessment Services.

19. Approve and authorize CAB Chair to sign Contract with State Dept. of Education for funding to provide Instructional materials and supplies for the Child Development Department.
20. Approve and authorize CAB Chair to sign Amendment to Contract with Calif. Dept. of Health Services to provide an increase of \$56,577 for the Women, Infants & Children Supplemental Nutrition Program activities.
21. Approve and authorize CAB Chair to sign the Proposal to the U.S. Dept. of Commerce Technology Opportunities Program (TOPS) for funding in the approximate amount of \$427,668 and including an equal in-kind match amount (in-kind match is not to include either County General Fund money or non-allowed federal grant/contract money).
22. Accept and place Board Information, Staff and Committee Reports on file.

Board Recognition

23. Proclaim March 10 through March 16 as Portuguese Immigration Week in Merced County.
24. Authorize Certificate of Recognition to McCombs Youth Center in recognition of Community Wide Open House and Dedication on February 26, 2002.
25. Authorize Certificates of Recognition to Dennis Nunes for Farmer of the Year 2000 and Robert L. Silva for Farmer of the Year 2001 as selected by the Los Banos Resource Conservation District.

Ag. Commissioner-Animal Control

26. Set public hearing for March 19, 2002 at 10:30 a.m. to consider Proposed Ordinance to Revise the Fee Schedule for Merced County Animal Control Fees (Amends Ordinance No. 1518 and Chapter 7.04 of the Code)

REGULAR CALENDAR

BOARD ACTION

HEALTH

27. Renewal Contract No. 2000254 with Central Calif. Legal Services for the Healthy Families and Medi-Cal for Children Outreach Project.

APPROVED AS RECOMMENDED AYES: ALL

PRIVATE INDUSTRY TRAINING DEPARTMENT

28. Contract with Information Systems for development and implementation of Case Management/Client Tracking System and approve budget transfer-\$45,000. (4/5 Vote Required)

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200231 AYES: ALL

29. Ratify appointment of Laura Gongora to the Workforce Investment Board (WIB) Youth Council.

APPROVED AS RECOMMENDED AYES: ALL

30. Ratify appointment of Cecilia Jimenez to the Workforce Investment Board (WIB) Youth Council.

APPROVED AS RECOMMENDED AYES: ALL

HUMAN SERVICES AGENCY

31. Approve lease purchase of one Octel 300 4.1 Upgrade to the Lucent/Octel Voice Processing System from Voicepro for use at the H.S.A. Merced, Los Banos, Livingston and Merced-Adult Services Offices and authorize the Director of General Services to sign.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200232 AYES: ALL

MENTAL HEALTH

32. Contract with Melita Daley, M.D. for the provision of psychiatrist services and adopt Resolution changing the monthly rate from \$76 to \$83.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200233 AND ADOPTED RESOLUTION NO. 2002-38 AYES: ALL

COURTS

33. Appointments to the Law Library Board of Trustees for 2002.
APPOINTED SHELLY A. SEYMOUR AND THOMAS "BILL" MCGEE TO SERVE AS MEMBERS OF THE LAW LIBRARY BOARD OF TRUSTEES FOR THE YEAR 2002 UNTIL JANUARY 1, 2003 AYES: ALL
34. Authorize improvements to County Owned Facilities concerning Fiber Optic Trenching and Power Upgrades for the purpose of allowing the Court to accomplish local "strategic goals" after review and approval by Public Works understanding the costs associated with this project will be borne entirely by Merced Superior Court.
REVIEW BOARD ORDER – SEE PAGE 10

ADMINISTRATION

35. Accept Notice of Intent to Retire effective March 21, 2003 from Michael Ford, Public Health Director.
ACCEPTED AS RECOMMENDED AYES: ALL
36. Adopt Media Relations Policy for implementation throughout the County departments and agencies.
PULLED FROM AGENDA – NO ACTION TAKEN

BOARD APPOINTMENTS

37. Franklin County Water District Appointments.
APPOINTED RONALD WRIGHT UNTIL DECEMBER 5, 2003 AND REAPPOINTED MARK BRANDWEIN, RODNEY ROSECRANTS AND JULIO CORDON UNTIL DECEMBER 7, 2005 TO SERVE AS MEMBERS ON THE FRANKLIN COUNTY WATER DISTRICT AYES: ALL
38. Los Banos Cemetery District Appointment.
APPOINTED FRITZ ADELAIDE BETTENCOURT TO SERVE AS A MEMBER OF THE LOS BANOS CEMETERY DISTRICT UNTIL JUNE 7, 2005 AYES: ALL
39. 2002 Board of Supervisors Committee and Board Assignments - Proposition 36-Drug Court.

APPOINTED SUPERVISOR JOE RIVERO (CHAIRMAN) TO SERVE AS THE BOARD OF SUPERVISORS REPRESENTATIVE ON THE PROP 36-DRUG COURT FOR THE YEAR 2002 AYES: ALL

PUBLIC WORKS

40. Approve plans and specifications for the Human Services Agency Phase 3 Area Reconfiguration and Re-wiring Project; authorize competitive bids and authorize award of contract by Public Works Director subject to concurrence of County Counsel providing the bid is within the established budget and authorize the Chairman to sign the Contract with report to come back to the Board and approve necessary budget transfer-\$204,700. (#048)
APPROVED AS RECOMMENDED AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

41. Hughson Fruit and Nut Festival re: Invitation to participate in Hughson Fruit and Nut Festival 6th Annual Parade set for May 18, 2002.
42. Second Harvest Food Bank of Santa Cruz and San Benito Counties re: Letter to encourage Merced County to apply for a Labor Surplus Area Waiver for Able-Bodied Adults Without Dependents (ABAWD's) for a Labor Surplus Area Waiver to help reduce hunger in Central California.
43. Regional Council of Rural Counties re: Board Appointments to RCRC and Affiliated Organizations.
44. State Fish and Game Wildlife Conservation Board re: Minutes of August 30, 2001. (On file with Clerk)
45. State Board of Equalization re: Assessment Guidelines for Public Retirement System Properties.
46. Business-Economic Opportunities re: Charter Communications notification of six new interactive channels effective February 22, 2002.
47. State Controller re: Notice of distribution from the Federal Grazing Fees Funds - Schedule of the amounts paid.
48. Private Industry Training Department re: Redirection of Program funds from dislocated worker activities to adult activities.

ADOPTED RESOLUTION AND ADJOURNED THE MEETING IN MEMORY OF GENEVIEVE OUSLEY UNTIL TUESDAY, MARCH 19, 2002 AT 10:30 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – MARCH 12, 2002

10:30 A. M. SCHEDULED ITEM

2002-03-12 ADMINISTRATION – PROPOSED ORDINANCE – FIRST READING - SET SECOND READING AND POSSIBLE ADOPTION FOR MARCH 19, 2002 AT 10:30 A.M.

The time and date previously set for the First Reading to amend Ordinance pertaining to the Office of County Administration recommending Option “A” be adopted for the CEO organizational structure for Merced County (Amends Ordinance Nos. 318, 348, 867, 1138 and 1507 and Amends Chapter 2.08 of the County Code) as submitted.

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

Supervisor O’Banion moves, seconded by Supervisor Crookham, to approve recommendation of Option A for CEO Organizational Structure for Merced County and sets second reading and possible adoption for March 19, 2002 at 10:30 a.m.

Supervisor Kelsey reviews concerns with the departments not under the CEO organizational structure.

Following discussion, Supervisor Kelsey moves an Amendment to the Motion, seconded by Supervisor Crookham, to approve the recommendation that Option A be adopted for the CEO organizational structure for Merced County and to include: Public Works and Spring Fair be added under the CEO.

Following further discussion, Supervisor O’Banion moves an Amended Motion to support the Amendment but to include all agencies to be under the CEO organizational structure except County Counsel. Supervisor Crookham seconds the Amended Motion.

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

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

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

Aye: Rivero, Cortez Keene, Crookham, Kelsey, O’Banion

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

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

10:30 A. M. SCHEDULED ITEM

2002-03-12 PLANNING - PUBLIC HEARING

The time and date previously set for a Public Hearing to consider an Appeal of the Planning Commission denial of Zone Variance Application No. 01023 and Minor Subdivision

Application No. 01057 submitted by Richard Perez. Said application is to vary from the minimum 20 acre parcel size in the A-1 (General Agricultural) zone and divide a 7.75 acre parcel into two parcels: Parcel 1 = 2.75 acres, Parcel 2 = 5 acres, located 360 feet east of Arena Way, 500 feet south of Liberty Avenue in the Livingston area.

Planner I Greg Forest reviews the Staff Report advising the applications were denied with only four commissioners present and two voting for and two voting against. Therefore, the recommendation before the Board is to deny the appeal and uphold the Planning Commission denial. He further states if the Board wishes to approve the zone variance, findings must be made.

The Chairman asks if there is anyone present who wishes to speak.

Duane Andrews, representing the applicant Richard Perez, asks the Board to approve the appeal based on special circumstances and requirements of the zone variance.

Following discussion, Supervisor Cortez Keene moves, seconded by Supervisor O'Banion, the Board finds Zone Variance Application No. 01023 and Minor Subdivision Application No. 01057 project is exempt from the California Environmental Quality Act as per Section 15061(b)(3) of the CEQA Guidelines and approves the appeal filed by Richard Perez and approves Zone Variance Application No. 01023 and Minor Subdivision Application No. 01057 subject to the following:

Application Findings

1. Zone Variance Application No. 01023 and Minor Subdivision Application No. 01057 propose to vary from the minimum 20 acre parcel size in the A-1 (General Agriculture) zone to create a 2.75 acre parcel and a 5 acre parcel.
2. The property is located 360 feet east of Arena Way, 500 feet south of Liberty Avenue in the Atwater/Livingston area.
3. Based on information provided by the applicant and presented at the public hearing, there are physical circumstances such as size, shape, topography and location or surrounding which the strict application of the zoning ordinance deprives the property owner of privileges enjoyed by other property in the vicinity and under identical zoning classification.
4. The granting of the variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated based upon the information provided by the applicant.
5. The variance would not authorize a use or activity not otherwise allowed in the zone since one home is allowed on all legal parcels in the A-1 zone.
6. Granting the variance is consistent with the Merced County General Plan based on the information presented by the applicant.
7. The public hearing has been adequately noticed and advertised.
8. MID operates and maintains the Well 32 pipeline within an unspecified width prescriptive easement south of, and parallel to, the north line of the new Parcel 1.

Application Conditions

1. The Zone Variance No. 01023 shall be valid as long as Minor Subdivision Application No. 01057 is valid.
2. A Parcel Map shall be recorded within two years of the Planning Commission approval date.
3. The applicant or property owner shall obtain a "Non-Exclusive License Agreement" from the MID to accompany and improvements required by the MID regarding any MID facilities on-site.

4. For the purpose of condition monitoring, a fee in the amount of \$46.00 shall be paid prior to recording the Parcel Map.

The Chairman calls for a vote on the Motion.

Supervisor Kelsey votes "no". Motion carries.

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

Noes: Kelsey

10:30 A. M. SCHEDULED ITEM

2002-03-12 HEALTH – FIRST READING – SET SECOND READING AND POSSIBLE ADOPTION FOR MARCH 19, 2002 AT 10:30 A.M.

The time and date previously set for First Reading of Proposed Revisions to Ordinance Establishing the Merced County Children and Families Commission submitted by the Health Department.

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

Upon motion of Supervisor O'Banion, seconded by Supervisor Cortez Keene, duly carried, the Board waives further reading of An Ordinance To Revise the Ordinance known as The Children and Families First Commission and sets second reading and possible adoption for March 19, 2002 at 10:30 a.m.

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

ACTION ITEM NO. 34

2002-03-12 COURTS

The Clerk states it is time to consider authorization of improvements to Merced Superior Court Fiber Trenches and Power Upgrades.

Tony Ortiz, Public Information Officer for Superior Court, appears before the Board and reviews the staff report.

Upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board authorizes improvements to County Owned facilities concerning Fiber Optic Trenching and Power Upgrades for the purpose of allowing the Merced Superior Court to accomplish local "strategic" goals after review and approval of the construction documents and issuance of required permits by the Department of Public Works understanding the costs associated with this project will be borne entirely by the Merced Superior Court.

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