



SUMMARY ACTION MINUTES

MERCED COUNTY BOARD OF SUPERVISORS

Regular Meeting TUESDAY, APRIL 16, 2002

Closed Session – 9:00 a.m.
Regular Meeting – 10:00 a.m.

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

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 EXECUTIVE 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

9:00 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: One Case

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 v. Fernandes

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

INVOCATION - Joe Florinda, United Methodist Church, Atwater

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: Donna Crowder, Bryant Owens, Chuck Dean and John Fowler

UC MERCED PROJECT - LIAISON REPORT

RECEIVED REPORT FROM UC LIAISON KATHLEEN CROOKHAM

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Sheriff-\$400 and Human Services Agency-\$43,000 (H-12)

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 12)

APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:30 A. M.

PLANNING – PUBLIC HEARING

General Plan Text Amendment No. 01001-Merced County

To amend the Merced County General Plan by modifying and adding policies regarding mineral resources and mining. The General Plan will also be amended to reference the "Classification Report" prepared by the California Dept. of Conservation's Division of Mines and Geology in 1999. The new information and policies are intended to serve as a management tool for the County in evaluating future proposals for aggregate mining within the county as well as ensuring stable and adequate supply of aggregate material while protecting the environment and discouraging incompatible land uses. The Text Amendment is effective Countywide in the unincorporated areas.

REVIEW BOARD ORDER – SEE PAGE 7, 8, 9, AND 10

10: 30 A. M.

PLANNING – PUBLIC HEARING – POSSIBLE ADOPTION OF RESOLUTION

2002 Cycle I – General Plan Text Amendment No. 01001

REVIEW BOARD ORDER – SEE PAGE 11

ADOPTED RESOLUTION NO. 2002-52 AYES: ALL

REPORTS/BOARD DIRECTION

County Administrator
County Counsel
County Auditor
Board of Supervisors Members

LUNCH BREAK

CONSENT CALENDAR (Items # 1 - 12)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Authorize Winton Spring Festival Committee to use Winton County Park from April 24 - 28, 2002 for Annual Spring Festival and Loyalty Day Parade; authorize Winton Cowboys non-profit organization to sell alcoholic beverages, waive restriction on sound equipment for the dance bands, waive restriction of animals in the park for the pony rides and demonstration purposes subject to conditions.

REVIEW BOARD ORDER – SEE PAGE 7

2. Proclaim the month of May, 2002 as "National Bike Month" in Merced County.

Planning

3. Approve Reconveyance request for CDBG Deferred Payment Loan provided to David Anderson, Jr. and authorize Planning Director to sign.
4. Approve and authorize Planning Director to sign Contract with Self-Help Enterprises for Consultant Services to implement and administer Grant for Housing Rehabilitation Assistance in the Winton and Cressey communities and to include the budgeted \$98,000 in Program Income Funds and authorize the signing of related documents as required by HCD.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200261 AYES: ALL

Business-Economic Opportunities

5. Approve and authorize Chairman to sign Extension to Contract with NEC Business Network Solutions, Inc. and Contract with Siemens Information and Communications Networks, Inc. in connection with FOCUS Programs.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200262 WITH NEC BUSINESS NETWORK SOLUTIONS AND CONTRACT NO. 200263 WITH SIEMENS INFORMATION AND COMMUNICATIONS NETWORKS, INC. AYES: ALL

6. Approve and authorize Chairman to sign Extension to Contract No. 2000121 with The StateStore, Inc. for FOCUS Programs.

Human Services Agency

7. Proclaim the month of May, 2002 as "Older Americans Month" in the County of Merced.
8. Proclaim the month of April, 2002 as "Child Abuse Prevention Month" in the County of Merced.

Board Recognition

9. Authorize Certificate of Recognition to Eugene (Blakhous) Her upon his selection as the Her Clan representative at the United Hmong International Council.
10. Authorize Certificate of Recognition to Norman Bettencourt - 2002 Hilmar Citizen of the Year selected by the Hilmar Chamber of Commerce.
11. Authorize Certificates of Recognition to Sharon Clauss, Agnes Pelous, Roxie Moradian, Pat Heiskell Hillman and Alice Peters for their selection as the 2002 Common Threads Honorees.
12. Proclaim April 14 - 20, 2002 as "National Library Week" in the County of Merced.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

13. Approve Three-Party Agreement for Deposit of Funds into the Kit Fox Conservation Account of the Nature Conservancy for the Juvenile Justice Correctional Complex.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200264 AYES: ALL
14. Authorize expenditure from Special Board Project Funds-District 4 as follows: \$2,000 to Stevinson Volunteer Fire for purchase of firefighting equipment; \$1,000 to Snelling Cemetery District for fence repair at Pioneer Cemetery and \$2,500 to the City of Gustine-Parks and Recreation for the Summer Youth Program and approves the necessary budget transfer.
APPROVED AS RECOMMENDED AYES: ALL
15. Authorize expenditure of Special Board Project Funds-District 3 of \$1,407 to Atwater Elementary School for Kindergarten Field Trip to Chaffee Zoo to cover the cost of transportation and admission and approves the necessary budget transfer.
APPROVED AS RECOMMENDED AYES: ALL

PUBLIC WORKS-CASTLE

16. Castle Airport Sublease Agreement for Building No. 1564 with Kenneth Peake for wood working business.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200259 AYES: ALL
17. Approve Castle Airport Sublease for Building No. 1320 with Jobs for California Graduates; authorize development of contract documents for Castle Airport Building #1320 Restroom Remodel with a total estimated budget of \$40,000 and authorize Public Works Director to approve the plans, specifications and working details; authorize the project for competitive bids with the Public Works Director to award and sign contract within the established budget and direct report come back to the Board with the bid results.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200260 AYES: ALL
18. PULLED.

19. Castle Airport Sublease Agreement for Building No. 1325 with The Community College Foundation for a mobile van that utilizes space for State Smog checks (temporary Smog Check Referee Station)

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200265 AYES: ALL

MENTAL HEALTH

20. Resolution approving the Substance Abuse and Crime Prevention Act of 2000 Fiscal Year 2002-2003 County Plan.

APPROVED RECOMMENDATION AND ADOPTED RESOLUTION NO. 2002-50 AYES: ALL

HEALTH

21. Contract with Abaris Group for Consultant Services to assist with the development of an ambulance service and medical dispatch procurement process and approve the necessary budget transfer.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200266 AYES: ALL

SPRING FAIR

22. Resolution authorizing the establishment of a Non-Revolving Line of Credit with County Bank-Los Banos to provide payment to sellers of the Junior Livestock Auction, funds to be repaid as payments are received from the buyers understanding the Loan will be for a maximum of \$550,000, will mature 9/10/02, bear an interest rate set at prime, which is currently below 8% and have a loan cost of \$350 with interest to be donated back to The Fair after redemption and authorize the Auditor to issue the Change Fund for operation of the Fair and sign the Loan Documents.

APPROVED RECOMMENDATION AND ADOPTED RESOLUTION NO. 2002-51 AYES: ALL

23. Approve Line of Credit in the amount of \$150,000 for Merced County Spring Fair to operate the Fair and Junior Livestock Auction, said loan will be for the period of April 26, 2002 through September 30, 2002 for the operation of the Fair and for the period of October 1, 2002 through February 28, 2003 the line of credit will be reduced to \$40,000 understanding both Loans will bear the interest rate equal to the Treasury rate of approximately 5% on the unpaid balance per annum.

APPROVED AS RECOMMENDED AYES: ALL

ADMINISTRATION

24. Approve the Merced County Zero-Tolerance Anti-Harassment and Discrimination Policy.

APPROVED AS RECOMMENDED AYES: ALL

25. Authorize the County Administrator to approve additional Administrative Leave as may be needed by employee (#54994) in the Health Department.

APPROVED AS RECOMMENDED AYES: ALL

HUMAN SERVICES AGENCY

26. Contract with Eldon E. Luce Consulting for an In-Home Supportive Services (IHSS) Public Authority Consultation Training Contract in an amount not to exceed \$30,000 subject to Administration and Counsel.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 200267 AYES: ALL

BOARD APPOINTMENTS

27. Advisory Board on Alcohol and Other Drug Problems.

REVIEW BOARD ORDER – SEE PAGE 11
APPROVED AS RECOMMENDED AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ITEMS ON FILE AYES: ALL

28. Great Valley Center re: Third in a Series Report - Assessing the State of the Great Central Valley - Region via Indicators - Community Well Being. (On file with Clerk)
29. Pacific Gas & Electric Company re: 2001 Franchise Fee documents and checks due to the County of Merced.
30. Calif. High-Speed Rail Authority re: Notice of Public Meeting on April 17, 2002 in San Bernardino.
31. California Regional Water Quality Control Board -Central Valley Region re: Notice of Public Workshop concerning Site Specific Objectives for pH and Turbidity for Deer Creek in El Dorado and Sacramento Counties.
32. Governor's Office of Emergency Services re: Second Update - Notification to all California Counties - additional filing extension for its Economic Injury Disaster Loan Program implemented nationwide for small businesses impacted by September 11, 2001 terrorist attacks and subsequent federal actions.
33. U.S. Fish and Wildlife Service re: Correction - New Statistical Analysis Available for Sacramento Splittail.
34. State Dept. of Housing and Community Development re: Draft 2002/2003 Annual Plan Update of the State Consolidated Plan FY 2000-2005 - CDBG HOME, Emergency Shelter Grant (ESG) and Housing Opportunities for Persons with AIDS (HOPWA) Programs
36. State Water Resources Control Board re: Notice of Public Hearing - Revision of California's Clean Water Act Section 303(d) List of Water Quality Limited Segments set for May 23-24, 2002.
35. State Water Resources Control Board re: Notice of Public Workshops - Review of Waivers for Agricultural Runoff - set for April 18 and May 20, 2002.

ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF RON BOOTH
UNTIL TUESDAY, APRIL 23, 2002 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – APRIL 16, 2002

CONSENT ITEM NO. 1

2002-04-16 PUBLIC WORKS

Upon motion of Supervisor Crookham, seconded by Supervisor O'Banion, duly carried, the Board authorizes the Winton Spring Festival Committee to use Winton County Park from April 24 - 28, 2002 for Annual Spring Festival and Loyalty Day Parade; authorize Winton Cowboys non-profit organization to sell alcoholic beverages, waive restriction on sound equipment for the dance bands, waive restriction of animals in the park for the pony rides and demonstration purposes subject to the following conditions

1. The Winton Spring Festival Committee to provide the County of Merced with a Certificate of Insurance certifying liability and property damage insurance coverage of a minimum of one million dollars (\$1,000,000.00) combined single limits for all activities to be conducted at the Park.
 2. The Winton Cowboys non-profit organization is to provide the County of Merced with a certificate of Insurance certifying liability coverage, including liquor liability insurance of a minimum of one million dollars (\$1,000,000.00) combined single limits to cover the sale of alcoholic beverages to the general public. All Certificates of Insurance must include the endorsement. "County of Merced, its Agents, Officers and Employees are additional insured's".
 3. The sale of alcoholic beverages shall comply with the rules, regulations and requirements of the California State Department of Alcoholic Beverage Control.
 4. The carnival operator shall have valid permits and inspection certificates required by the State of California to operate this type of business.
 5. The Committee shall provide additional portable restroom facilities as may be needed, at no cost to the County of Merced.
 6. Contract with the Sheriff's Department for security personnel or should private security be used, the Sheriff's Department will need to approve the firm used and coordinate its activities.
 7. Provide additional refuse bins as may be required or arrange for the daily removal of refuse.
- Ayes: Rivero, Cortez Keene, Crookham, Kelsey, O'Banion

10:30 A.M. SCHEDULED ITEM

2002-04-16 PLANNING – PUBLIC HEARING

The time and date previously set for a Public Hearing to consider General Plan Text Amendment No. 01001 submitted by the Planning Department. Said proposal is to amend the Merced County General Plan by modifying and adding policies regarding mineral resources and mining. The General Plan will also be amended to reference the "Classification Report" prepared by the California Dept. of Conservation's Division of Mines and Geology in 1999. The new information and policies are intended to serve as a management tool for the County in evaluating future proposals for aggregate mining within the county as well as ensuring stable and adequate supply of aggregate material while protecting the environment and discouraging incompatible land uses. The Text Amendment is effective Countywide in the unincorporated areas.

Planning Director Bill Nicholson reviews the Staff Report and states the Planning Commission recommended approval based on findings. He introduces Bruce Steubing, Resource Design Technology (consultant to the County) to present and review the Merced County Mineral Resources Policy Amendments dated April, 2002.

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

Linda Falasco, Executive Director of the Construction Materials Association of California, speaks in support of the policies that focus solely on the Surface Mining and Reclamation Act requirements to conserve aggregate resources, Policies in Goal 4, Objective A, Policies 1 and 2. She also speaks in support of the County to voluntarily extend these protective measures to those areas commonly referred to as dredge tailings and speaks in opposition to any agriculture mitigation measure for their industry which are conditions in Policy No. 7 and briefly reviews the reasons. Ms. Falasco states should the Board proceed with the policy, that the organization have a seat on the proposed countywide task force that is formed to develop those mitigation measures and reserve the right to argue for an exemption based on their impact. She further opposes including watershed management policies.

Chuck Falkerstein, General Manager of Central Valley Trucking, speaks on what increased distance to an aggregate source will bring about (Letter dated April 9, 2002 on file).

Charlie Wensley, President of Builders Concrete (formerly Sequoia) states Merced County has one of the best aggregate sources in the valley and expresses concern on Proposal No. 4 forcing the aggregate industry to move into dredger tailings and reviews the possible problems that may/will occur.

Ted Falasco, Owner of Central Valley Concrete and Central Valley Trucking, speaks in support of permitted aggregate sites and states serious consideration should be given to allow aggregate production on farm land.

Don Bergman, CEO of the Greater Merced Chamber of Commerce, reviews growth of the county and submits letter dated April 15, 2002 urging the Board to approve the Mineral Resource Policy Amendment to the General Plan.

Jeff McClane, U.S. Fish and Wildlife Service, submits letter dated April 15, 2002, and expresses concerns about the cumulative impacts on the Merced River Corridor and the Negative Declaration and the language in the amendment. He requests the Board continue the matter so that they can work with the County on some of the amended text and potential changes to the Negative Declaration.

The Board discusses concerns expressed by the U. S. Fish and Wildlife.

Lydia Miller, President-San Joaquin Raptor Rescue Center, submits and reads the letter into the record dated April 16, 2002. She requests that the Negative Declaration be denied as well as the findings and that an Environmental Impact Report (EIR) be done.

Glen Anderson, representing the local chapter of the Community Alliance with Family Farmers, reads a letter into the record dated April 16, 2002 outlining the concerns with the Merced County Mineral Resource Policy Amendments and the Proposed Negative Declaration.

Sally Magneson, representing the League of Women Voters, states correspondence has been submitted during the original comment period and the Planning Commission hearing. She states the League supports preservation of state agricultural lands and therefore are pleased the designation 'productive' instead of 'prime' is used for land that would require reclamation or mitigation measures; however, recommends that irreplaceable prime river bottom agricultural land be protected from mining.

Jeannie Ferrarie asks for consideration of the value of maintaining the Merced River and the River Corridor.

Linda Falasco submits Petitions dated April 15, 2002 from various property owners that farm in the Merced River area between Highway 59 and the Cressey Bridge in support of the concept of private property rights and are members of the California Farm Bureau.

Bernard Wade reviews mining history and operations.

Cindy Lashbrook, landowner, wishes the Board deny the Negative Declaration without a full EIR and states other sources of aggregate have not been fully studied as an alternative.

The Board recesses and reconvenes at 1:30 p.m.

Charles Magneson submits and reads a letter dated April 16, 2002 requesting the Board preserve his farm from the destruction that gravel mining brings and votes against the proposed amendment and requests a complete EIR.

Diane Westmoreland-Pedrozo, on behalf of the California Women for Agriculture and the Merced County Farmland American Space Trust, requests the Board conduct an extensive groundwater study before further decisions are made on the water.

Joe Mitchell states the General Plan is outdated and all amendments are unacceptable and unsupportable.

Attorney Tom Shephard, representing Santa Fe Aggregates, Inc., urges that the Negative Declaration is suitable and requests the letter from Santa Fe Aggregates, Inc. Engineer Michelle Langmaid dated March 4, 2002, be included as part of this testimony.

Kus Porter briefly reviews submitted letters of testimony at the Planning Commission public hearing held in March and recommends the County develop a countywide plan relating to conservation easements as early as possible and require all building, mining and other operations that will have a significant impact on productive farmland to use conservation easements.

Supervisor Kelsey requests additional information on various testimony submitted and states her preference is that additional conversations occur with Planning and the U.S. Fish and Wildlife representatives and work on issues addressed.

Planning Director Bill Nicholson responds to various questions and Deputy County Counsel James Tarahalla responds to concerns on the letter submitted by U.S. Fish and Wildlife stating he feels the risk is diminus.

Following discussion, Supervisor Kelsey states her concern on the adoption of the Negative Declaration advising she is not comfortable because of the designation of the 16,000 acres that sit inside the Merced River Valley and the water issues that she discussed earlier.

Following a lengthy discussion, Supervisor O'Banion moves, seconded by Supervisor Cortez Keene, the Board approves the Negative Declaration for General Plan Text Amendment No. 01001 based on the following Findings:

1. Based on the Initial Environmental Study and comments received, a fair argument has been made that the proposed project could not have a significant effect on the environment.
2. The Negative Declaration was prepared and circulated in accordance with the CEQA Guidelines and reflects the independent judgment of the County.

and makes an Intended Decision to approve General Plan Text Amendment No. 01001 based on Findings recommended by the Planning Commission as follows:

1. The State Mining and Geology Board prepared and adopted the "Mineral Land Classification of Merced County, California" in June of 2000.
2. In compliance with the Surface Mining and Reclamation Act (SMARA) the County is required to incorporate the State's classification report into the General Plan and adopt policies to conserve and promote development of the mineral resources identified, and recognize the maps prepared by the State Geologist (Public Resources Code Section 2762a).
3. The proposed General Plan Text Amendment satisfies the requirements in the Public Resources Code including Sections 2762 through 2376 through the reference to the State's classification Report and its maps, and the inclusion of policies that assist in the management of land uses that would preclude mineral extraction and emphasize the conservation of identified mineral deposits.
4. The proposed policies also recognize other areas may be suitable for aggregate mining beyond those mapped by the State Geologist, including the historic dredger tailings along the Merced River.
5. The General Plan Text Amendment is consistent with the balance of the General Plan including the Land Use, Open Space/Conservation and Agricultural Chapters.
6. The public hearing has been adequately noticed and advertised for this countywide policy amendment.
7. In the event that a countywide agricultural mitigation program is adopted by the County and its incorporated cities, mining projects that result in a significant impact to agricultural resources shall be subject to the same mitigation requirement.

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

2002-04-16 PLANNING – PUBLIC HEARING

The time and date previously set to consider possible adoption of Resolution for 2002 Cycle I General Plan Text Amendment No. 01001 submitted by Planning.

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

Upon motion of Supervisor Crookham, seconded by Supervisor O'Banion, duly carried, the Board approves Cycle I of the Merced County General Plan Amendment which consists of one application, General Plan Text Amendment No. 01001 and adopts Resolution No. 2002-52.

Ayes: Rivero, Crookham, O'Banion

Noes: Kelsey

Not Present: Cortez Keene

ACTION ITEM NO. 27

2002-04-16 MENTAL HEALTH – Advisory Board on Alcohol and Other Drug Problems

Upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board appoints Chief Tony Dossetti, Merced Police Department, to serve at the Pleasure of the Board as the Criminal Justice representative, and appoints Mike Hughes as the District Five Representative until June 30, 2004, to serve as members of the Advisory Board on Alcohol and Other Drug Problems.

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