



SUMMARY ACTION MINUTES

MERCED COUNTY BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, OCTOBER 22, 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 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

8:30 A. M.

CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATOR: It is the intention of the Board to meet in Closed Session concerning a Conference with Real Property Negotiator(s) Paul Fillebrown-Public Works Director pursuant to Section 54956.8 as follows:
Property: Property at Castle Airport Aviation and Development Center
Negotiating Parties: Challenger Learning Center Foundation
REVIEW BOARD ORDER – SEE PAGE 8

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 Case(s)

THE BOARD RECESSED INTO CLOSED SESSION AT 8:30 A.M. AND RECONVENED AT 10:35 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED DIRECTION WAS GIVEN TO STAFF

10:00 A. M.

PLEDGE OF ALLEGIANCE

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)

REVIEW BOARD ORDER – SEE PAGES 8 AND 9

The following speak: Carol Tomlinson-Keasy, Dr. Barbara Showalter, Melia Ortiz and Robert Mitchell

UC MERCED PROJECT - LIAISON REPORT

RECEIVED REPORT FROM UC LIAISON KATHLEEN CROOKHAM

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Business-Economic Opportunities-\$50,000; Child Support Services-\$20,000; Health-\$3,337, \$14,292, \$5,693, \$85,911, \$53,580, \$345 and \$13,055; Sheriff-\$20,000 and Auditor-\$7,000

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 17)

APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

ADDED AGENDA ITEM:

REVIEW BOARD ORDER – SEE PAGE 8

THE BOARD FINDS THE NEED TO CONSIDER A CLOSED SESSION CONFERENCE WITH COUNTY COUNSEL CONCERNING ANTICIPATED LITIGATION AND PLACES THE ITEM ON THE CLOSED SESSION AGENDA FOR CONSIDERATION AYES: ALL

10:30 A. M.

HEALTH / PLANNING - SECOND READING AND POSSIBLE ADOPTION

To consider Proposed Revisions to the Animal Confinement Ordinance, Zone Code Text Amendment Ordinance and Subdivision Code Text Amendment Ordinance

REVIEW BOARD ORDER – SEE PAGES 9 AND 10

10:30 A. M.

PLANNING – PUBLIC HEARING, CONTINUED FROM OCTOBER 8, 2002

Appeal of the Planning Commission denial of Zone Variance Application No. 02012 and Minor Subdivision Application No. 02019 - Julio Reynoso. The applicant proposes to vary from the minimum 20 acre parcel size in the A-1 (General Agricultural) Zone and subdivide a 22.6 acre parcel into three parcels: Parcel 1=1 acre, Parcel 2=1.59 acres and Parcel 3=20 acres on property located on the west side of Cressey Way and the south side of Liberty Avenue in the Cressey area

REVIEW BOARD ORDER – SEE PAGES 11 AND 12

REPORTS/BOARD DIRECTION

County Executive Officer
County Counsel
County Auditor
Board of Supervisors Members

LUNCH BREAK

CONSENT CALENDAR (Items # 1 - 17)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Adopt Resolution designating the intersection of Bloss Avenue and Griffith Avenue as an All-Way Stop Intersection in the Hilmar area.

ADOPTED RESOLUTION NO. 2002-205 AYES: ALL

2. Accept the Final Map for Harmony Ranch II Unit No. 3 Subdivision in the Delhi area.
3. Approve and authorize the Public Works Director to sign Change Order No. 6 to Contract No. 200294 with Commercial Construction for H.S.A. Phase III Office Remodel in the amount of \$12,990 to accommodate the additional electric work.

Public Works-Castle

4. Approve and authorize Chairman to sign Sublease Contract with Joe Castro dba Castro Electric for Building 855 to continue tenancy at Castle Airport.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2002205 AND APPROVED RECOMMENDATION AYES: ALL

Health

5. Approve and authorize Chairman to sign Renewal Contract No. 2001161 with State Dept. of Health Services – Office of Vital Records for automated filing of death certificates for the period of July 1, 2002 to June 30, 2003 for a total potential revenue of \$1,100 for Death Certificate Services.
6. Approve and authorize Chairman to sign Amendment to Contract No. 2000200 with Planned Parenthood Mar Monte which conducts targeted outreach and education to populations in Merced County at risk for transmitting or contracting HIV/AIDS.

Human Services Agency

7. Approve and authorize Chairman to sign Amendment to Contract No. 2002113 with IBM for a two-year subscription to CADIQ web-based service.

Mental Health

8. Approve and authorize Chairman to sign Renewal Contract No. 200131 with The Center for Applied Local Research for the evaluation of the Adult Drug Court Grant Program.
9. Approve and authorize Chairman to sign Renewal Contract No. 2001298 with The Center for Applied Local Research for evaluation of the Juvenile Drug Court Program.
10. Set public hearing for November 5, 2002 at 10:30 a.m. to consider a proposed ordinance to adopt fees for aftercare services provided by the Alcohol and Drug Services Division of Mental Health.

Business-Economic Opportunities

11. Approve assignment of Contract No. 200123 with Includix Corporation to Mercury Associates, Inc., authorize the Chairman to sign Amendment to Contract and the Letter of Authority to Mercury Associates, Inc.

District Attorney

12. Adopt Resolution authorizing continued participation in the Spousal Abuser Prosecution Program and authorize the District Attorney to sign Contract with the Calif. Dept. of Justice-Attorney General's Office.

ADOPTED RESOLUTION NO. 2002-206 AND AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 9529 AYES: ALL

Planning

13. Set public hearing for November 5, 2002 at 10:30 a.m. to consider Amendment to the Agricultural Preserve as per the requirements of the Land Conservation Act of 1965 (Williamson Act) Section 51200 et. seq. of the Calif. Government Code.

Travel Requests

14. Approve Travel Requests submitted by Public Works-Transit as recommended by Executive Office.

Budget Transfers

15. Approve Budget Transfers submitted by Fire-OES-\$8,458 and Sheriff-\$2,800 as recommended by Executive Office.

Board Recognition

16. Authorize Certificate of Recognition to Mrs. Guiomar Costa for her selection as the Farmer/Conservationist/Environmentalist of the Year 2002 by the Los Banos Resource Conservation District.

Board of Supervisors

17. Approve Minutes of July 2, 9 and 23, 2002.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

18. Resolution adopting the Merced County Regional Bicycle Plan as amended to include improvements along the south side of State Highway 140 in the Planada area.

ADOPTED RESOLUTION NO. 2002-207 AS RECOMMENDED AYES: ALL

19. Resolution committing to matching funds and authorizing the Director of Public Works to submit a 2003/2004 Bicycle Transportation Account Grant Application to the Caltrans Bicycle Facilities Unit and to sign all related documents.

ADOPTED RESOLUTION NO. 2002-208, CONTRACT NO. 2002203 WITH CALIF. DEPT. OF TRANSPORTATION-BICYCLE FACILITIES UNIT AYES: ALL

PUBLIC WORKS-CASTLE

20. Addendum No. Three to Contract No. 200163 with The Regents of the University of California for use of Building No. 1200 for an additional term of five years and approximately four months with the final expiration date of December 14, 2025.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2002206 AYES: ALL

SHERIFF

21. Authorize budgetary and administrative changes of the Metamphetamine Initiative as approved by the Dept. of Justice COPS Office and approve the necessary budget transfers-\$43,924, \$16,000 and \$11,000.

APPROVED AS RECOMMENDED AYES: ALL

22. Contracts with Deputy Johnny Mathis for Canine "Hannah" and with Deputy Kirk DeHart for Canine "Scout" to serve in the Merced County Sheriff Dept. Canine Unit.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2002207 WITH DEPUTY KIRK DEHART FOR CANINE "SCOUT" AND CONTRACT NO. 2002208 WITH DEPUTY JOHNNY MATHIS FOR CANINE "HANNAH" AYES: ALL

PLANNING

23. Authorize the Planning and Community Development Director to sign Reconveyance and Subordination Documents as needed, provided those agreements do not lessen the County's position, excluding closing and financing costs.

APPROVED AS RECOMMENDED AYES: ALL

24. Authorize Planning to submit an Application for a \$600,000 Grant to the State Dept. of Housing and Community Development (HCD) under the Home Investment Partnerships (HOME) Program; adopt Program Guidelines and Resolution authorizing the signing.

ADOPTED RESOLUTION NO. 2002-209 AND CONTRACT NO. 2002204 WITH STATE DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT AYES: ALL

MENTAL HEALTH

25. Contract with University of Phoenix as a learning experience for students in their Masters Level Counseling Program and placement of student interns with an interest in public mental health.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2002209 AYES: ALL

HEALTH

26. Direct Staff to prepare the appropriate environmental document and revisions to existing County Codes related to forthcoming changes in Federal, State regulations or other implementation issues related to animal confinement facilities.

APPROVED AS RECOMMENDED AYES: ALL

FIRE

27. Franklin Fire Station Proposal, Report and Recommended Actions.

REVIEW BOARD ORDER – SEE PAGE 10

APPROVED AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

28. Resolution acknowledging road safety concerns in the Hilmar community.

REVIEW BOARD ORDER – SEE PAGES 10 AND 11

ADOPTED RESOLUTION NO. 2002-210 AS RECOMMENDED AYES: ALL

29. Approve Board of Supervisors Meeting Calendar for 2003.

APPROVED AS RECOMMENDED AYES: ALL

UC MERCED PROJECT

30. Authorize the closure of the UC Development Office at 11:00 a.m. on October 25, 2002.

APPROVED AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

31. May Day Fair Board.

REAPPOINTED SANDY MORIMOTO REPRESENTING DISTRICT FOUR TO SERVE AS A MEMBER OF THE MAY DAY FAIR BOARD UNTIL JULY 1, 2006 AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED INFORMATION ON FILE AYES: ALL

32. CALFED Bay-Delta Program re: Ecosystem Restoration Program - Contract Amendments Workshop set for October 24, 2002.
33. Bureau of Justice Assistance re: Announcement of new funding program for county and state governments entitled: Southwest Border Prosecution Initiative.
34. State Board of Equalization re: Property Taxpayers' Bill of Rights Annual Report. (On file with Clerk)
35. State Board of Equalization re: Updates of State Assessment Manual and Unitary Valuation Methods.
36. State Board of Equalization re: Revision of Assessment Appeals Manual.
37. State Fish and Game Commission re: Meeting Notice for October 23, 24 and 25, 2002.

**ADOPTED RESOLUTION AND ADJOURNED THE MEETING IN MEMORY OF MEI
FUN DOO UNTIL TUESDAY, NOVEMBER 5, 2002 AT 10:00 A.M.**

BOARD ORDERS – SUMMARY ACTION MINUTES – OCTOBER 22, 2002

10:00 A.M. SCHEDULED ITEM

2002-10-22 COUNTY COUNSEL – CLOSED SESSION ITEM

County Counsel Dennis Myers states, in Closed Session, the Board took action to extend the County's option for One-Year with the Challenger Learning Center and the Vote was a Unanimous Vote of the Board based on the Closed Session held as follows:

CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATOR: It is the intention of the Board to meet in Closed Session concerning a Conference with Real Property Negotiator(s) Paul Fillebrown-Public Works Director pursuant to Section 54956.8 as follows:

Property: Property at Castle Airport Aviation and Development Center

Negotiating Parties: Challenger Learning Center Foundation

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

10:00 A.M. ADDED AGENDA ITEM

2002-10-22 COUNTY COUNSEL

Upon motion of Supervisor O'Banion, seconded by Supervisor Rivero, duly carried, the Board finds the need arose, subsequent to the posting of the agenda, to consider Closed Session with County Counsel pursuant to Government Code Section 54956.9 concerning: Conference with Legal Counsel regarding Anticipated Litigation and places the item on the agenda for Board consideration.

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

10:30 A. M. SCHEDULED ITEM

2002-10-22 PUBLIC OPPORTUNITY TO SPEAK

The time set for the Public Opportunity to Speak on any matter of Public Interest within the Board's agenda, except for those items specifically scheduled as public hearings.

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

UC Merced Chancellor Carol Tomlinson-Keasy appears and thanks the County for their support during the past three years.

Dr. Barbara Showalter appears on behalf of the proposed Merced Violence Prevention Task Force and requests support for a joint city-county task force.

Melia Ortiz requests to be placed on a Board Agenda for further board action on the Resource Conservation District presentation previously provided to the Board.

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

10:30 A.M. SCHEDULED ITEM

2002-10-22 HEALTH/PLANNING – PROPOSED ORDINANCE

The time and date previously set for a Second Reading and possible adoption of proposed Ordinance to consider revisions to the Animal Confinement Ordinance, Zone Code Text Amendment Ordinance and Subdivision Code Text Amendment Ordinance as submitted by the Health and Planning Departments.

Supervisor O'Banion requests Counsel interpretation if he can participate in this issue as he owns a Dairy.

County Counsel Dennis Myers states the law reads you can participate as it is a countywide issue.

Environmental Health Director Jeff Palsgaard submits and reviews the Staff Report.

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

Colleen Phillips Trieweiler appears and speaks in opposition on behalf of CLAW.

Bill Huffman, North Creek Road resident, expresses concern with the smell, water and flies. Stating the silage is too close and is higher than his house.

Glenn Anderson, Hilmar farmer, expresses concern with mega farms and his farm impact.

Jeannette Gomes, resident, expresses concern with the enforcement of the EIR and speaks in support of additional staff to monitor and enforce.

Vivian McGee, resident, submits pictures displaying fly problem and states she does not feel the EIR will address all the issues properly.

Faye Evens, Rahilly Road resident, expresses concern with the air quality, water, smell and flies.

Sharon Young, Rahilly Road resident, requests additional studies before the Board considers approval since the air will be impacted.

Kathy Gudgel expresses concern with the air quality.

Following a lengthy discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Cortez Keene, duly carried, based on Staff Findings, the Board certifies the Program Environmental Impact Report pursuant to California Code of Regulations, Title 14, Section 15090 for the proposed amendments to the Animal Confinement Ordinances, Zoning and Subdivision Codes; approves the Findings and Overriding Considerations and adopts the Mitigation Monitoring Plan; the Board makes the following Findings:

1. The Board finds that in compliance with changes to state and federal laws regulating confined animal facilities and changes in the confined animal industry, the County is revising the Animal Confinement Ordinance to comply with changed laws, and to promote the public health, safety and welfare of the citizens of the County.

2. The Board finds that Zone Code Text Amendment No. 01002 and Subdivision Code Text Amendment No. 02001 bring the Zoning and Subdivision Codes into consistency with the proposed Animal Confinement Ordinance Text Amendments.
3. The Board finds that the proposed Animal Confinement Ordinance and Zone Code and Subdivision Code Text Amendments are consistent with the County General Plan.
4. The Board finds that the Public Hearing has been adequately noticed and advertised.

The Board waives further reading of the proposed ordinances and adopts the revisions as follows:

Adopts Ordinance No. 1683 – An Ordinance Revising the Merced County Animal Confinement Ordinance (Amends Ordinance No. 1099 and Chapter 7.13 of the County Code);

Adopts Ordinance No. 1684 – An Ordinance Revising the Zone Code Revisions (Amends County Code Title 7, Chapter 7.13, Title 18 Zoning); and

Adopts Ordinance No. 1685 – An Ordinance Revising the Subdivision Code Revisions (Amends County Code Title 7, Chapter 7.13, Title 17 Subdivisions).

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

ACTION ITEM NO. 27

2002-10-22 FIRE

Upon motion of Supervisor Kelsey, seconded by Supervisor Cortez Keene, duly carried, the Board receives and files the Status Report on the Franklin County Fire Station; directs the Fire Chief to continue exploring options for the replacement of initial response services in the Station No. 81 area and to explore options for the relocation of Fire Department Headquarters with the CEO and the Auditor to explore financing alternatives for this project.

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

ACTION ITEM NO. 28

2002-10-22 BOARD OF SUPERVISORS

Supervisor Kelsey states no funding has been identified for safety improvements to State Highway 165 which provides a valuable transportation corridor for the movement of goods between Los Banos and Stanislaus County via Interstate 5. State Highway 165 passes through the community of Hilmar carrying large volumes of heavy truck traffic and passes directly next to all three schools within the community of Hilmar. The Hilmar Municipal Advisory Council (MAC) has considered supporting Measure M however are extremely concerned that safety concerns related to their community are not addressed in Measure M. They have asked for this resolution as a guarantee that the Board recognize their concerns and is committed to pursue safety improvements to State Highway 165.

Robert Mitchell, Hilmar, speaks in support of the resolution.

George Kapor requests the Board consider Measure M to help support their area.

Les Acevedo, Hilmar, speaks in concern and states they just want to know they have the county behind them if they support Measure M.

Jeff Stromm, Hilmar MAC and President of Hilmar Unified School District speaks on behalf of the School Board and MAC requesting support of the Hilmar area.

David Miller, Superintendent of Hilmar Unified School District, speaks in concern to the location of the schools and the heavy traffic and requests support of funds for the Hilmar community.

Lon Waterson, Hilmar MAC, addresses the traffic flow and traffic circulation of the area.

Following discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board acknowledges road safety concerns in the community of Hilmar.

Following further discussion, the Board amends the motion to include the Board acknowledges road safety concerns in the community of Hilmar and includes endorsement of Measure M for the Hilmar community.

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

10:30 A.M. SCHEDULED ITEM

2002-10-22 PLANNING – CONTINUED PUBLIC HEARING

The time and date previously set for the continued public hearing to consider the Appeal from Julio Reynoso of the Planning Commission denial of Zone Variance Application No. 02012 and Minor Subdivision Application No. 02019. The applicant proposes to vary from the minimum 20 acre parcel size in the A-1 (General Agricultural) zone and subdivide a 22.6 acres parcel into three parcels: Parcel 1=1 acre, Parcel 2=1.59 acres and Parcel 3=2 acres on property located on the west side of Cressey Way and the south side of Liberty Avenue in the Cressey area.

Assistant Planning Director Butch Cope submits and reviews the Staff Report.

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

Judy Gates, neighbor, states her concern is the access to the MID control gate.

Julia Reynoso, daughter, and Jose Reynoso, son of applicant, appear to speak in support of the proposal stating the land will not be taken out of production.

Following discussion, Supervisor Kelsey moves to deny the appeal to Zone Variance Application No. 02012 and Minor Subdivision Application No. 02019 filed by Julio Reynoso based on the fact that this is a variance in a rural area and this is an unplanned rural residential site.

Supervisor Rivero seconds the Motion to deny the appeal.

Following further discussion, Supervisors O'Banion and Rivero state they cannot support the Motion on the Floor. Supervisor Kelsey withdraws the Motion on the Floor.

Following further discussion and upon motion of Supervisor Cortez Keene, seconded by Supervisor Rivero, duly carried, the Board upholds the Appeal and overturns the determination of the Planning Commission and approves Zone Variance Application No. 02012 and Minor Subdivision Application No. 02019 based on the Variance Findings for three lots; finds the project is exempt from the Calif. Environmental Quality Act as per Section 15061(b)(3) of the CEQA Guidelines; and based on Staff Findings the Board approves the Applications based on the following conditions:

1. The Zone Variance Application No. 02012 shall be valid as long as Minor Subdivision Application No. 02019 is valid.
2. The Parcel Map shall be recorded within two years of the Planning Commission approval date.
3. A Right-to-Farm note shall be placed on the Parcel Map to inform future owners of the inconveniences of farming operations and the priority to which Merced County Places on such operations.
4. The applicant shall not discharge any agricultural drainage water from the property into MID facilities.
5. The applicant shall require that MID irrigation water delivery be ensured to all new parcels and an irrigation easement be provided from the existing irrigation delivery gate currently serving the whole property if there is not an irrigation delivery located within each parcel.
6. The owner shall dedicate 10 feet of right-of-way for road purposes along the entire Cressey Way frontage of the property. Dedication shall be on the Parcel Map.
7. For the purpose of condition monitoring, a fee in the amount of **\$46.00** shall be paid prior to the recording the Parcel map.

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