

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, APRIL 15, 2003

Closed Session – 8:30 a.m.

Regular Meeting – 9:00 a.m.

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

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

DEMITRIOS O. TATUM
COUNTY EXECUTIVE OFFICER

RUBEN E. CASTILLO
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 County Executive Officer-Real Property Negotiator(s) pursuant to Section 54956.8 as follows:

Property/Reference: Development Services Facility
Negotiating Parties: City of Merced
Property Description: 19th and N Streets

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: It is the intention of the Board to meet in Closed Session concerning a Conference with Legal Counsel (Government Code Section 54956.9(c)): Initiation of Litigation (1 case)

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

9:00 A. M. **OFFICE OF EMERGENCY SERVICES - Tour of the Emergency Operations Center**

Merced County Operations Center Re-orientation
County Administration Building, Basement

RECEIVED TOUR AND OVERVIEW OF THE PROGRAM

10:00 A. M. **PLEDGE OF ALLEGIANCE**

PRESENTATION

Award for Achieving Excellence in Financial Reporting - County Auditor-Controller

HELD OVER

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: Bryant Owens and Steve Smith

UC MERCED PROJECT - LIAISON REPORT

NO REPORT

APPROVAL OF CONSENT AGENDA CALENDAR (Items # 1 - 15)

APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:30 A. M. **FIRE - PROPOSED ORDINANCE - SECOND READING AND POSSIBLE ADOPTION**

An Ordinance to amend Uniform Fire Code (Amends Ordinance No. 1618 and Code Section 9.24.010 and Section 9.24.280)

REVIEW BOARD ORDER – SEE PAGE 7

10:30 A. M.

BUSINESS-ECONOMIC OPPORTUNITIES – PUBLIC HEARING – PROPOSED ORDINANCE – POSSIBLE ADOPTION

An Ordinance to extend by six months the grant to Central Valley Cable TV, LLC of a non-exclusive franchise to construct, operate and maintain a cable television system in unincorporated territories in the County of Merced and providing terms and conditions for the operation of such system and providing fees therefore (Amends Ordinance No. 1202 and supercedes Ordinance No. 1652)

REVIEW BOARD ORDER – SEE PAGE 7

PLANNING - PUBLIC HEARING

Appeal of the Planning Commission denial of Zone Variance Application No. 02031 and Minor Subdivision No. 02059 - George Jercich

To vary from the minimum parcel size (160 acres) in the A-2 (Exclusive Agricultural Zone) by dividing an existing 46.4 acre substandard parcel of land into four parcels: Parcel No. 1=10 acres, Parcel No. 2=10 acres, Parcel No. 3=14.35 acres and Parcel No. 4=12.07 acres on property located on the north side of Merced Falls Road, 4.5 miles east of La Grange Road in the Snelling area

REVIEW BOARD ORDER – SEE PAGE 7 AND 8

REPORTS/BOARD DIRECTION

County Executive Officer, County Counsel, County Auditor, Board of Supervisors Members

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 15)

APPROVED AS RECOMMENDED AYES: ALL

Business-Economic Opportunities

1. Set May 6, 2003 at 10:30 a.m. for a public hearing to consider Proposed Ordinance to extend by six months the grant to Comcast of San Joaquin, Inc. for cable television services.

Health

2. Approve and authorize Chairman to sign Renewal Contract No. 8284 with California State University, Fresno for clinical and public health nurse training.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003062

3. Approve and authorize the Chairman to sign Amendment to Contract No. 8774 with Medi-Flight of Northern California for air ambulance services.

Claims for Damages

4. Act on Claims for Damages filed by Judith Perry, Hector Mendoza and Linda Hardcastle as recommended by Risk Management.

Human Services Agency

5. Authorize continuation of overhire of one Eligibility Program Manager (Position #211) for a Limited Term not to exceed one year.
6. Approve and authorize Chairman to sign Renewal Contract No. 200022 with Probation for the utilization of a Deputy Probation Officer and authorize H.S.A. and Probation Directors to sign subsequent amendments for change to work statement, procedures, policies within the contract budget.
7. Approve and authorize Chairman to sign Memorandum of Understanding with Merced College and the Center for Independent Living to provide services to CalWORKs employment and training participants.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003063

Mental Health

8. Proclaim the Month of May, 2003 as "Drug Court Month" in Merced County.
9. Approve and authorize Chairman to sign Renewal Contract No. 99180 with Public Defender for provision of legal services to Indigents.

Dept. of Workforce Investment

10. Approve and authorize Chairman to sign Amendment to Contract No. 9115 with Merced Adult School for basic education services in the PLATO Lab.

Budget Transfers

11. Approve Budget Transfers submitted by Mental Health-\$2,000, Public Works-\$-0- (#062) and \$15,000 (#058) and Children and Families Commission-\$688.

Board Recognition

12. Authorize plaque presentation to Albert and Arlene Coderniz in celebration of their 50th Wedding Anniversary.
13. Authorize Certificate of Recognition to A Woman's Place in recognition of Open House and Ribbon Cutting.
14. Authorize Certificates of Recognition in recognition of the Firefighter of the Year Awards as follows: Steve Carrick (Career Fire Captain) and Jose Flores (Volunteer Livingston Station)-Merced County Fire Department; Mark Akers (Captain)-Merced City Fire Department; Keri Maciel (Volunteer) and Tim Adams (Career Fire Captain)-Atwater City Fire Department; Robert Strach (Firefighter)-Los Banos City Fire Department; Leroy Onstine (Volunteer)-Gustine City Fire Department and Justin Metz (Volunteer)-Dos Palos City Fire Department.
15. Authorize Plaque in recognition of the Retirement of Lt. Norm Chavez from the Los Banos California Highway Patrol.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

16. Authorize Special Board Project Funds-District One expenditure in the amount of \$1,000 to Le Grand Community Services District to help with the Preliminary Application Filing for the U.S.D.A. Grant Funding and approve the necessary budget transfer. (#060)

APPROVED AS RECOMMENDED AYES: ALL

17. Authorize expenditure in the amount of \$1,400 to the City of Livingston from Special Board Project Funds-District One to provide the local match requirement as part of the City of Livingston Community Development Block Grant received in the amount of \$35,000 and approve the necessary budget transfer. (#059)

APPROVED AS RECOMMENDED AYES: ALL

DEPT. OF WORKFORCE INVESTMENT

18. Authorize Letter supporting the Workforce Investment Act (WIA) Reauthorization.

APPROVED AS RECOMMENDED AYES: ALL

19. Authorize Letter requesting support for opposition to the reduction of local control of Workforce Investment Act in the temporary aid for needy families (TANF) reauthorization.

APPROVED AS RECOMMENDED AYES: ALL

PLANNING

20. Amendments to Dual Contracts for Special Services to review and process an Environmental Impact Report on Santa Fe Aggregates' Bettencourt Mine Expansion Project as follows: Contract No. 2001257 with Santa Fe Aggregates (Applicant Agreement) and Contract No. 2001258 with EIP Associates, Inc. (Consultant Agreement) for additional research, report writing and revision and approve the necessary budget transfer.

REVIEW BOARD ORDER – SEE PAGE 8

HUMAN SERVICES AGENCY

21. Amendment to Contract No. 5434 with Calif. Dept. of Aging for Senior Community Services Employment Program and approve the necessary budget transfers. (4/5 Vote Required)

APPROVED AS RECOMMENDED AYES: ALL

MENTAL HEALTH

22. Authorization to research space availability in the Livingston area for the Mental Health Department for Adult and Youth Services and return to the Board for approval and signature.

APPROVED AS RECOMMENDED AYES: ALL

PROBATION

23. Authorize early termination of Contract No. 2002213 with CSU-Stanislaus effective April 25, 2003; authorize notification of a Reduction in Force (RIF) effective April 25, 2003 pursuant to Human Resources Rules and Regulations, Section 2.W. affecting one Legal Process Clerk I/II position; delete one vacant Deputy Probation Officer position (BU 23403) and adopt Resolution.

ADOPTED RESOLUTION NO. 2003- 61 AS RECOMMENDED AYES: ALL

BUSINESS-ECONOMIC OPPORTUNITIES

24. Authorize Application to the Department of Defense for continued funding of Procurement Technical Assistance Center Program and authorize Chairman to sign the required documents.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003064 AYES: ALL

EXECUTIVE OFFICE

25. Authorize payment of General Membership dues of \$24,590 for the FY 2003/2004 MCAG Work Program and direct Staff to include the Grant Writing Services as a policy issue in the FY 2003/2004 Budget.

APPROVED AS RECOMMENDED AYES: ALL

26. Contract with Law Firm of Morse, Pfeiff and Garcia for Indigent Defense Services and to return to the Board within 30 days.

REVIEW BOARD ORDER – SEE PAGE 9

COUNSEL

27. Resolution to Order Initiation of Foreclosure Proceedings (Santa Nella Plaza Assessment District Number 1993-1).

ADOPTED RESOLUTION 2003-62 AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

28. District Four - Delhi Municipal Advisory Council.

REAPPOINTED RANDY BEARD TO SERVE AS A MEMBER OF THE DELHI MUNICIPAL ADVISORY COUNCIL UNTIL JANUARY 3, 2006 AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

29. Calaveras County Board of Supervisors re: Increased continuous appropriation to the USDA-APHIS, Wildlife Services budget to support California's Cooperative Wildlife Services Program.
30. Sutter County Board of Supervisors re: Increased continuous appropriation to the USDA-APHIS, Wildlife Services Budget to support the wildlife services cooperative program in California.
31. The Reclamation Board re: Request for assistance in notifying the public of the potential need to obtain a Board issued permit.
32. Congress of the United States re: Correspondence sent to Under Secretary for Natural Resources and the Environment - urgent concern to California's ranching families and to the recreating public who use pack and saddle stock.
33. Congress of the United States re: Correspondence to Committee on Appropriations - Request for support in fighting the glassy-winged sharpshooter and the fatal plant diseases including Pierce's Disease.

ADJOURNED MEETING UNTIL TUESDAY, APRIL 29, 2003 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – APRIL 15, 2003

10:30 A.M. SCHEDULED ITEM

2003-04-15 FIRE – ORDINANCE NO. 1695 ADOPTION

The time and date previously set to consider Second Reading and Possible Adoption of Proposed Ordinance titled “An Ordinance to Adopt by Reference the 2000 Edition of the Uniform Fire Code”.

Upon motion of Supervisor Cortez Keene, seconded by Supervisor O’Banion, duly carried, the Board waives further reading of Proposed Ordinance titled An Ordinance to Adopt by Reference the 2000 Edition of the Uniform Fire Code (Supersedes Ordinance No. 1618 and Amends County Code Section 9.24.010 and Section 9.24.280) and adopts Ordinance No. 1695.

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

10:30 A.M. SCHEDULED ITEM

2003-04-15 BUSINESS-ECONOMIC OPPORTUNITIES - PUBLIC HEARING – ORDINANCE NO. 1696 ADOPTION

The time and date previously set for a public hearing to consider second reading and possible adoption of Proposed Ordinance titled “An Ordinance to extend by six months the Grant to Central Valley Cable TV, LLC of a non-exclusive franchise to construct, operate and maintain a cable television system in unincorporated territories in the County of Merced and providing terms and conditions for the operation of such system and providing fees therefore” (Amends Ordinance No. 1202 and supercedes Ordinance No. 1652)

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

Upon motion of Supervisor Cortez Keene, seconded by Supervisor Kelsey, duly carried, the Board waives further reading of Proposed Ordinance titled An Ordinance to Extend by six months the Grant to Central Valley Cable TV, LLC, a non-exclusive Franchise (Supersedes Ordinance No. 1652 and amends Ordinance No. 1202) and adopts Ordinance No. 1696.

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

10:30 A.M. SCHEDULED ITEM

2003-04-15 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. 02031 and Minor Subdivision No. 02059 submitted by George Jercich. Said application is to vary from the minimum parcel size (160 acres) in the A-2 (Exclusive Agricultural) Zone by dividing an existing 46.4 acre substandard parcel of land into four parcels: Parcel No. 1=10 acres, Parcel No. 2=10 acres, Parcel No. 3=14.35 acres and Parcel No. 4=12.07 acres on property located on the north side of Merced Falls Road, 4.5 miles east of La Grange Road in the Snelling area.

County Counsel Ruben Castillo states for the record that Supervisor Kelsey has left the chambers and has disqualified herself due to a potential conflict.

Planning Director Bill Nicholson reviews Staff Report recommending the Board uphold the Planning Commission's denial of Zone Variance Application No. 02031 and Minor Subdivision Application No. 02059.

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

Attorney David Peatland, representing George Jercich, provides an overhead presentation and speaks on the following criteria: Physical Circumstances, Special Privileges, Authorized Use or Activity and the General Plan.

Allen Schell speaks in favor of the subdivision.

Ed Pattison, Merced County Farm Bureau Executive Director, speaks with no opposition to the request.

Horace Kelsey, Kelsey Ranch owner, states he is strongly opposed to Mr. Jercich's request.

Bernard Wade states the County needs a Master Plan in the Snelling area.

Norman Harvey, Merced River Mining semi-retired Mining Engineer, advises the Board granting a variance and putting people so close to mining could be very detrimental.

Following discussion, Supervisor Nelson moves, seconded by Supervisor Crookham, to uphold the Planning Commissions decision and deny Zone Variance Application No. 02031 and Minor Subdivision No. 02059.

Following discussion regarding zoning categories and land use by the river, Planning Director Bill Nicholson provides an overview of past discussion and alternatives.

Following further discussion, Supervisor Nelson rescinds the Motion on the Floor.

Following discussion and upon motion of Supervisor O'Banion moves, seconded by Supervisor Cortez Keene, duly carried, the Board refers Zone Variance Application No. 02031 and Minor Subdivision No. 02059 back to the Planning Commission and/or Staff in an attempt to develop alternatives as discussed and presented in this hearing for resolution.

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

Not Present: Kelsey

ACTION ITEM NO. 20
2003-04-15 PLANNING

Supervisor Cortez Keene moves, seconded by Supervisor Nelson, the Board approve and authorize the Chairman to sign Addendum to Contact No. 2001257 with Santa Fe Aggregates and Addendum to Contract No. 2001258 with EIP Associates, Inc. for Special Services for revisions

and expanded analysis relative to the environmental impact report on Santa Fe Aggregates' Bettencourt Mine Expansion Project and approve the necessary budget transfer.

Planning and Community Development Director Bill Nicholson appears before the Board and states correspondence was faxed and received by Lydia Miller and Steve Burke relative to this project.

Mr. Nicholson states the documents being circulated includes all environmental analysis.

Following further discussion, the Chairman calls for the Vote on the Motion. Motion carries.
Ayes: Crookham, Cortez Keene, Nelson, Kelsey, O'Banion

ACTION ITEM NO. 26

2003-04-15 EXECUTIVE OFFICE

County Executive Officer Demitrios Tatum recommends the Board continue discussion on the Contract for Indigent Defense Services until May 6, 2003 to provide the opportunity for further review.

Following discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Cortez Keene, duly carried, the Board continues discussion on the Contract for Indigent Defense Services until the Board Meeting set for May 6, 2003.

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