



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, SEPTEMBER 23, 2003

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
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

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 Government Code Section 54956.9(b)(1): 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 Government Code Section 54956.9(a):

San Joaquin Raptor Center, Protect Our Water and Merced River Valley Association v. County of Merced, Merced Board of Supervisors, et al. Merced Superior Court Case No. 145941

Jose Hernandez and Roberto Hernandez v. County of Merced, Case No. 145955

THE BOARD RECESSED AT 9:00 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED STAFF WAS GIVEN DIRECTION

10:00 A. M.

PLEDGE OF ALLEGIANCE

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
NO REPORT**

**APPROVAL OF CONSENT AGENDA CALENDAR (Items #1-20)
APPROVED AS RECOMMENDED AYES: ALL**

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:30 A. M.

BUSINESS-ECONOMIC OPPORTUNITIES – PROPOSED ORDINANCE - SECOND READING AND POSSIBLE ADOPTION

An Ordinance granting a non-exclusive franchise to Central Valley Cable TV, LLC to construct, operate and maintain a cable communications system in the unincorporated territory of the County of Merced in the Le Grand and Planada areas (Supercedes Ordinance Nos. 1202, 1595 and 1652)

REVIEW BOARD ORDER – SEE PAGE 8

PUBLIC WORKS - PUBLIC HEARING

Consideration of a Mitigated Negative Declaration/Initial Study for a proposed County Office Building and Expansion of the existing county court facility in Los Banos

REVIEW BOARD ORDER – SEE PAGE 8

PLANNING - PUBLIC HEARING

Appeal of the Planning Commission Denial of Administrative Application No. 03033 submitted by Magallan/Ridenheur

Application is to operate an outdoor semi-mobile food vendor service on a site with an existing Napa Auto Parts Store on property located on the west side of Winton Way, 942 feet north of Gertrude Avenue in the Winton area

REVIEW BOARD ORDER – SEE PAGE 8

10:30 A. M.

PLANNING - PUBLIC HEARING

Appeal of the Planning Commission Denial of Zone Variance Application No. 03039 submitted by Nathan Silva

Said Application is to vary from the minimum 20-acre parcel size in the A-1 (General Agricultural) Zone and to divide a 2.7-acre parcel of land into two parcels: Parcel 1=1.35 acres and Parcel 2=1.35 acres on property located on the east side of Buhach Road, 975 feet south of Elliott Road in the Merced area

REVIEW BOARD ORDER – SEE PAGE 9

10:30 A. M.

AUDITOR-CONTROLLER – PROPOSED ORDINANCE - FIRST READING - SET SECOND READING AND POSSIBLE ADOPTION FOR OCTOBER 7, 2003 AT 10:30 A.M.

An Ordinance to establish Revenue and Reimbursement Division of the Auditor-Controller's Office as the collection arm of the County including the required collection procedures

REVIEW BOARD ORDER – SEE PAGE 9

REPORTS/BOARD DIRECTION

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

LUNCH BREAK

CONSENT CALENDAR (Items # 1 – 20)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Authorize the California Indian Education Association/Central Valley Chapter, in conjunction with UC Merced, to use Lake Yosemite Facilities on November 8, 2003 and waive the restriction on amplified sound equipment for the First Annual Benefit Pow Wow to raise student scholarship funds.

Health

2. Approve and authorize Chairman to sign Renewal Contract No. 200121 with VIA Adventures, Inc. for collaboration in the Going Places Project.
3. Approve and authorize Chairman to sign Amendment to Contract No. 200087 with State Dept. of Health Services for Ryan White Care Act Funding.
4. Approve and authorize Chairman to sign Renewal Contract No. 2001161 with State Dept. of Health Services for automated filing of death certificates.
5. Approve and authorize Chairman to sign Renewal Contract No. 9906 with Dee H. Rowe, D.D.S. to serve as the Dental Consultant for the Medical Assistance Program.

Auditor-County Clerk

6. Approve consolidations for the November 4, 2003 Consolidated U.D.E.L. Municipal, and School Election.

Ag. Commissioner

7. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 2002112 with Calif. Dept. of Food and Agriculture for Exotic Insect Pest Detection.

ADOPTED RESOLUTION NO. 2003-164

8. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 7704 with Calif. Dept. of Pesticide Regulation for Data Entry and Electronic Transmittal of Pesticide Use Reports.

ADOPTED RESOLUTION NO. 2003-165

9. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 1472 with Calif. Dept. of Food and Agriculture for Egg Quality Control Inspection Services.

ADOPTED RESOLUTION NO. 2003-166

10. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 1186 with Calif. Dept. of Food and Agriculture for Nursery Stock Inspection Services.

ADOPTED RESOLUTION NO. 2003-167

Information Systems

11. Contract No. 2000139 with Megabyte Systems, Inc. for one-year maintenance of the Property Tax Software System used by the Assessor's Office, Tax Collector's Office and the Auditor's Office.

District Attorney

12. Approve and authorize Chairman to sign Renewal Contract No. 2001167 with Robert and Yvonne Ayers and Margaret Lawler for 656 West 20th Street, Merced office space.
13. Approve and authorize Chairman to sign Renewal Contract No. 8709 with Robert & Yvonne Ayers and Margaret Lawler for 658 West 20th Street, Merced office space for Misdemeanor, Domestic Violence and Victim/Witness divisions.

Mental Health

14. Approve and authorize Chairman to sign Renewal Contract No. 200217 with State Dept. of Mental Health for Standard Agreement for Specialty Mental Health Services-Managed Care.
15. Approve and authorize Chairman to sign Renewal Contract No. 200218 with State Dept. of Mental Health for State Mandated Performance Contract.
16. Approve and authorize Chairman to sign Renewal Contract No. 2002219 with Rebekah Children's Services.

Business-Economic Opportunities

17. Set a public hearing for October 21, 2003 at 10:30 a.m. to consider a Proposed Ordinance granting Comcast of San Joaquin, Inc., a non-exclusive franchise to construct, operate and maintain a cable television system in the unincorporated territories in the County of Merced and providing terms and conditions for the operation of such system and providing fees therefore.

Board Recognition

18. Authorize Certificate of Recognition to Mark and Kelly Bauer in celebration of their 15th Wedding Anniversary.
19. Authorize Certificate of Recognition to Evelyn Gutierrez upon her retirement from the Los Angeles County Office of Workplace Programs.

Travel Request

20. Authorize Travel Request for Mental Health as recommended by Executive Office.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

21. Authorize Grant of Easement and Agreement with Regents of the University of California for use of the Bellevue Road right-of-way, from G Street to the UC Merced Campus, for a fiber optic conduit system.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003239 AYES: ALL

22. Contract Award to Garcia Paving Company for Los Banos Veteran's Memorial Building Parking Lot Asphaltic Concrete Overlay for a total of \$31,575 and authorize Public Works Director to negotiate and sign a Deductive Change Order not to exceed \$5,075.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003164 AYES: ALL

SHERIFF

23. Accept the 2003 Local Law Enforcement Block Grant Award from the Dept. of Justice in the amount of \$79,805 as follows: Juvenile Hall-\$30,000 (new officer radios) and Sheriff-\$49,805 (Infrared Tele Camera Kit, AO School ammunition and Airplane operating expenses) and approve the necessary budget transfers.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003207 AYES: ALL

24. Authorize Contract Award to ModUCom Corporation for the PSAP 911 Modular Communications System for the Sheriff Department, RFP 5854.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003203 AYES: ALL

25. Contract with Riggs Ambulance Services for Mutual Aid during special operations.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003210 AYES: ALL

26. Authorize the change of future ordered Sheriff patrol fleet to be black and white and authorize the change in decaling and approve the necessary budget transfer-\$1,000.

APPROVED AS RECOMMENDED AYES: ALL

FIRE

27. Contract with Calif. Dept. of Forestry and Fire Protection for Mutual Aid Agreement.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003204 AYES: ALL

HEALTH

28. Adopt Resolution authorizing Contract with State Water Resources Control Board for Air Emission Studies related to Animal Feeding Operations in the amount of \$600,000,

authorize the Chairman to sign the Certification Clause and the Environmental Health Director to sign all payment requests and approve the necessary budget transfer-\$300,000.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003202 AND ADOPTED RESOLUTION NO. 2003-168 AYES: ALL

29. Authorize participation in the Central Valley Partnership for Public Health and its pursuit of regional planning funding for chronic diseases from The California Endowment and return to the Board with update and further direction in February, 2004.

APPROVED AS RECOMMENDED AYES: ALL

30. Approve participation of the Health Department and the Human Services Agency in Merced County's HCAP consortium activities for the purpose of increasing healthcare access to the underinsured and uninsured residents of the County should federal funds be granted.

APPROVED AS RECOMMENDED AYES: ALL

PLANNING

31. PULLED

32. 2003 HOME Investment Partnerships (HOME) Program Grant authorization for Planning to release a Request for Proposal (RFP) to qualified consultants to provide services for the implementation and grant administration, if funded.

MODIFIED RECOMMENDATION AYES: ALL

AUDITOR

33. Approve Sheriff and District Attorney request for State Citizen's Option for Public Safety (COPS) Program Funding as follows: District Attorney-\$65,147 and Sheriff-\$65,147 (Jail) and \$121,256 (Enforcement) and authorize the Auditor to apportion the COPS funds.

APPROVED AS RECOMMENDED AYES: ALL

34. Contract with Four Way Properties for Los Banos Recorder/Clerk/Elections Office space.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003206 AYES: ALL

35. Resolution setting the Secured Property Tax Rates for the 2003-2004 Fiscal Year.

ADOPTED RESOLUTION NO. 2003-169 AYES: ALL

COUNSEL

36. Settlement Agreement for payment related to consulting on the UC Environmental Impact Report and authorize release of claim with EIP Associates, Inc.

REVIEW BOARD ORDER – SEE PAGE

37. Contract with Weakley, Ratliff, Arendt and McGuire, LLP for Special Legal Services in connection with Merced Superior Court Case Number 145955.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003208 AYES: ALL

38. Resolution vacating and setting aside the adoption and/or approval of General Plan Amendment No. 01001 and the Negative Declaration in support of General Plan Amendment 01001 in compliance with Superior Court order in connection with Merced Superior Court No. 145941 (San Joaquin Raptor Rescue Center and Protect Our Waters and the Merced River Valley Association) and authorize Counsel to file a return to the Writ of Mandate demonstrating compliance with the Court's order.

ADOPTED RESOLUTION NO. 2003-170 AYES: ALL

MENTAL HEALTH

39. Mental Health Interim Plan for the provision of DUI Programs (six-week wet-reckless, four-month and six-month programs) and the Deferred Entry of Judgment (DEJ) Program, authorize negotiation of Sole Source Contract with Lifestyle Management, Inc. for provision of the interim programs to come back to the Board for approval and authorize development and implementation of DEJ Program to be conducted at the Judicial Services Program located at 2130 Cooper Avenue, Merced understanding the actions are contingent upon Merced College Board of Trustees' action to cancel Merced College's contract with the County for provision of DUI and DEJ Programs (Cancellation of Contract No. 5309 and No. 9301 as of November 30, 2003).

APPROVED AS RECOMMENDED AYES: ALL

DEPT. OF WORKFORCE INVESTMENT

40. Authorize submittal of Application to the Employment Development Department's Disability Program Navigator Grant Fund in the amount of \$75,000 to enhance service delivery to individuals with disabilities at One-Stop locations and authorize Dept. of Workforce Investment Director to return to the Board if awarded.

APPROVED AS RECOMMENDED AYES: ALL

AG. COMMISSION

41. Request to hold Fundraising Event on October 25, 2003 at St. Patrick's Center for the benefit of Merced County Animal Control and Shelter sponsored by Wine and Dine for Canines and Felines Volunteer Group and approve use of donated benefit funds as jointly determined by the Wine and Dine for Canines and Felines Group and County Animal Control Director to be deposited in a Trust Account.

APPROVED AS RECOMMENDED AYES: ALL

BUSINESS-ECONOMIC OPPORTUNITIES

42. Contract with Stanislaus Economic Development and Workforce Alliance to provide Small Business Development Center services in Merced County.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003209 AYES: ALL

BOARD OF SUPERVISORS

43. California High Speed Rail System - Resolution of Support in accordance with Board Action of September 16, 2003 reflecting the commitment in the following areas: Support Merced County as one of the route stops for the High Speed Rail System, Strongly support Castle Aviation and Development Center as being considered a maintenance hub facility for the High Speed Rail System, Support the efforts of the citizens' committee to promote and coordinate activities for establishing the presence of the High Speed Rail System in Merced County and work with the citizens' committee and other governmental jurisdictions towards a High Speed Rail System for Merced County.

ADOPTED RESOLUTION NO. 2003-171 AYES: ALL

BOARD APPOINTMENTS

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: AYES

- 44. Public Works re: Bid Results - Contract No. 2003128 awarded to Quality Well Drillers for the Highway 59 Landfill New Water Well, Phase I.
- 45. Public Works re: Bid Results - Contract No. 2003163 awarded to Walsh Electronics Systems Technology for the Closed Circuit Television System at the Marie Green Psychiatric Center.
- 46. Planning re: Broadcasting Planning Commission meetings response to Board.

THE BOARD REFERS THE RESPONSE BACK TO EXECUTIVE OFFICE FOR A WORK PLAN BASED ON COMMENTS AND THE MATTER COME BACK TO THE BOARD AYES: ALL

- 47. Calif. High-Speed Rail Authority re: The draft Environmental Impact Report (EIR)/federal-level Tier-1 Environmental Impact Statement (EIS) scheduled for release has been delayed due to longer review time by agencies.
- 48. City of Atwater re: Request for furniture items to be transferred to the Atwater Fire Department permanently and if not permanently, request the furniture remain at the City Station on loan until the new fire station is constructed and furnished for use.

THE BOARD REFERS THE REQUEST TO THE FIRE DEPARTMENT AND EXECUTIVE OFFICE TO COME BACK TO THE BOARD WITH A RECOMMENDATION FOR ACTION AYES: ALL

ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF DONALD DEVAURS, SUSIE ROSSI AND DAN SERPA UNTIL TUESDAY, OCTOBER 7, 2003 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – SEPTEMBER 23, 2003

10:30 A.M. SCHEDULED ITEM

2003-09-23 BUSINESS-ECONOMIC OPPORTUNITIES - ORDINANCE NO. 1708 ADOPTED

The time and date previously set for Second Reading and possible adoption of a Proposed Ordinance titled An Ordinance Granting a Non-Exclusive Franchise to CVC TV, LLC to operate and maintain a Cable Communications System in the Unincorporated Territory of the County of Merced in the Le Grand and Planada Areas (Superseding Ordinance Nos. 1202, 1595 and 1652) as submitted by Business-Economic Opportunities.

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 Proposed Ordinance titled An Ordinance Granting a Non-Exclusive Franchise to CVC TV, LLC to operate and maintain a Cable Communications System in the Unincorporated Territory of the County of Merced in the Le Grand and Planada Areas (Superseding Ordinance Nos. 1202, 1595 and 1652) and adopts Ordinance No. 1708.

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

10:30 A.M. SCHEDULED ITEM

2003-09-23 PUBLIC WORKS – PUBLIC HEARING

The time and date previously set for a public hearing to consider the Mitigated Negative Declaration/Initial Study for the proposed County Office Building and Expansion of the existing County Court Facility in Los Banos submitted by Public Works.

Public Works Director Paul Fillebrown reviews the staff report submitted.

Supervisor O'Banion reviews the history of the proposed County Office Building.

The Chairman opens the public hearing and asks if there is anyone present that wishes to speak.

The following speak:

Mary Vilalta Brooks speaks against the proposed building location stating her parents own land that will be affected. She states she feels there is a better location than where it is proposed and believes that all of this is premature, the project and location and planning.

Tim Miller, Community Development Director for the City of Los Banos, comments on the proposed project.

Mike Vilalta, property owner, speaks of the disadvantages to the property in the area.

Following a lengthy discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Cortez Keene, duly carried, the Board continues the public hearing to a later date with direction being given to staff to have the public participate and have a presentation provided in the Los Banos area.

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

10:30 A.M. SCHEDULED ITEM
2003-09-23 PLANNING – PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal of the Planning Commission Denial of Administrative Application No. 03033 submitted by Magallan/Ridenheur. Said Application is to operate an outdoor semi-mobile food vendor service on a site with an existing Napa Auto Parts Store on property located on the west side of Winton Way, 942 feet north of Gertrude Avenue in the Winton area.

Planning and Community Development Director Bill Nicholson reviews the Staff Report and Planning Commission recommendation.

The Chairman opens the public hearing and asks if anyone wishes to speak.

Mike Smith, Central Calif. Permit Services representing the applicant, expresses concern with the issues used in the denial and states the applicant has met all criteria required which includes landscaping, construction of a fence and purchase of waste receptacles and hopes he is given an opportunity to operate his business.

Jay Callahan, Winton resident, presents Winton Municipal Advisory Council minutes and current pictures of the facility. He states his concerns are for health reasons with litter, restroom facilities and inequity to existing business owners.

Bryant Owens appears before the Board addressing problems with the general plan.

Marla Flores, Winton resident, reads a letter into the record from the gentleman that lives next door to where the taco truck will reside and states her concern is on the proposed location and individuals being able to see right into her home, littering and taxes that are paid by the business owners and not mobile food vendors.

Agnes Sietsma, Winton Municipal Advisory Council member, states the Council is interested in working together to improve the tax base and in setting up rules for businesses like these.

Al Souza, Winton Municipal Advisory Council member, requests the Board consider denial.

Mark Magallan states there is no code that states how many trucks are allowed or should be allowed, reviews what steps have been taken to meet the criteria and requests the Board give them a chance to operate.

Following a lengthy discussion, Supervisor Kelsey moves, the Board uphold the Planning Commission decision to deny the application based on the findings that they were unable to make and find that its incompatible with the neighborhood and the desire of the community and refer the

entire issue back to staff for findings with the matter to come back to the Board for further discussion.

The Chairman states the Motion dies for Lack of a Second.

Following further discussion, Supervisor Cortez Keene moves, seconded by Supervisor Nelson, the Board approve Administrative Application No. 03033, follow through with referring the matter for further study to create a countywide policy for the mobile food vendor with input from the communities, municipal advisory councils and City of Merced; and request Counsel to study the mobile food vendor issue further until there is a coordinated policy for mobile food vendors with input from the entire community.

Following further discussion, Supervisor Cortez Keene withdraws the Motion. Supervisor Nelson withdraws the second to the Motion.

Following discussion, Supervisor Cortez Keene moves, seconded by Supervisor O'Banion, the Board uphold the appeal and overturn the determination of the Planning Commission and approve the application, exempts the application from CEQA and approves the Administrative Application No. 03033 based on Findings and subject to the following conditions:

1. Administrative Permit No. 03033 is granted to establish a semi-mobile food vendor truck on the subject property as shown on the approved plot plan.
2. The vendor truck shall be maintained and operated in accordance with the conditions of the permit and the approved plot plan. The Planning and Community Development Director may approve minor modifications to the application.
3. The application shall comply with all applicable regulations administered by the County. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning and Public Works Departments.
4. The applicant shall comply with the Merced County Zoning Code Development Standards required for Semi-Mobile Food Vendors (§18.47.79.D) including, but not limited to the following:
 - a. The operating hours shall be limited to between 9:00 a.m. to 8:00 p.m. daily, including Saturdays and Sundays.
 - b. There shall be adequate trash receptacles adjacent to the vehicle.
 - c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day (§18.47.79.D.9).
 - d. Wastewater generated by this use shall not be released on-site or into any storm drainage or irrigation system (§18.47.79.D8).
 - e. Grease shall be disposed per requirements of the Division of Environmental Health.
5. No additional advertising sign except a sign attached to the vehicle and approved by the Planning and Community Development Director is allowed.
6. This Administrative Permit No. 03033 is not transferable to another operator.
7. The applicant will need to make his outdoor food vendor business self-contained for potable water, wastewater, and power within the vehicle. Electrical connections to adjacent businesses may be permitted if approved by the County Building Division as meeting County Codes.
8. Two parking spaces shall be provided as per the requirements of the Merced County Zone Code.

9. The Division of Environmental Health requires that the Mobile Food Preparation Unit obtain the necessary (Health) permit to operate a vehicle in accordance with the California Retail Uniform Food Facilities Law.
10. The vehicle must be brought to an approved commissary or other approved food facility for servicing each day of operation.
11. During all hours of operation, the staff must have access to a restroom, which has been approved by Environmental Health Division. The restroom must be within 200 feet walking distance of the vehicle. The vehicle operator must have written authorization for use of the restroom.
12. For the purpose of mitigation and/or condition monitoring, an inspection fee in the amount of \$92.00 shall be required. This fee shall be paid prior to initiation of the business.
13. A 6-foot high wooden fence be completed along the northern property line prior to initiation of the food vendor operation.

Supervisor Kelsey states she cannot support the Motion on the Floor stating the Board does not have a policy to go by, the Planning Commission could not approve the application, there is a discrepancy in the findings and there are concerns of the municipal advisory council.

The Chairman calls for a Vote on the Motion.

Supervisor Kelsey votes "no". Motion carries.

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

Noes: Kelsey

Following further discussion, Supervisor Cortez Keene moves, seconded by Supervisor O'Banion, duly carried, the Board direct Counsel and Planning to review the current ordinance and determine the next step necessary to come up with one consistent policy that will serve the County and provide better guidance relative to Mobile Food Vendor operations and to report back on the status and possible inclusion of incorporated cities, unincorporated municipal advisory councils and the public.

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

10:30 A.M. SCHEDULED ITEM
2003-09-23 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. 03006 and Minor Subdivision No. 03039 submitted by Nathan Silva. Said application is to vary from the minimum 20-acre parcel size in the A-1 (General Agricultural) zone and to divide a 2.7-acre parcel of land into two parcels: Parcel 1=1.35 acres and Parcel 2=1.35 acres on property located on the east side of Buhach Road, 975 feet south of Elliott in the Merced area.

Planning Director Bill Nicholson reviews the Staff Report and the Planning Commission recommendation.

The Chairman opens the public hearing and asks if there is anyone present who wishes to speak.

Nathan Silva, property owner, asks the Board to overturn the Planning Commissions denial and approve his appeal.

Mike Smith, Central California Permit Services representing the applicant, states all the conditions have been met by the applicant and requests the Board approve Mr. Silva's appeal.

Bryant Owens states he takes offense to Ag land being referred to as "just pastureland" as noted by the Planning Department.

Following discussion and upon motion of Supervisor Nelson, seconded by Supervisor Kelsey, duly carried, the Board upholds the determination of the Planning Commission denying Zone Variance Application No. 03006 and Minor Subdivision Application No. 03039.

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

10:30 A.M. SCHEDULED ITEM

2003-09-23 AUDITOR-CONTROLLER – PROPOSED ORDINANCE

The time and date previously set for the First Reading of the proposed Ordinance to establish Revenue and Reimbursement Division of the Auditor-Controller's Office as the collection arm of the County submitted by Auditor-Controller.

Auditor-Controller Steve Jones reviews the Staff Report.

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 the proposed Ordinance to Establish Revenue and Reimbursement Division of the Auditor-Controller's Office as the collection arm of the County including the required collection procedures and sets second reading and possible adoption for October 7, 2003 at 10:30 a.m.

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

ACTION ITEM NO. 36

2003-09-23 COUNSEL

The Chairman advises the Settlement Agreement with EIP Associates, Inc. for UC Environmental Impact Report services is before the Board for consideration.

Supervisor Kelsey states she is against the settlement agreement and is concerned that direction was given regarding this contract and the issue was not presented before the Board before action was taken.

Supervisor Cortez Keene moves, seconded by Supervisor Nelson, the Board approve and authorize the Chairman to sign Contract No. 2003205 with EIP Associates, Inc. for consulting

services provided on the UC Environmental Impact Report and authorize release of claim with EIP Associates, Inc.

The Chairman calls for a Vote on the Motion.

Supervisor Kelsey votes "no". Motion carries.

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

Noes: Kelsey