



# SUMMARY ACTION MINUTES

## BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, DECEMBER 09, 2003

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

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)**

**The following speak: Joe Mitchell and Planning Director Bill Nicholson**

**UC MERCED PROJECT - LIAISON REPORT**

**RECEIVED REPORT FROM UC LIAISON KATHLEEN CROOKHAM**

**BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES** (4/5 Vote Required) Human Services Agency-\$10,428; District Attorney-\$5,000 and Public Works-Castle-\$30,000 (#016)

**APPROVED AS RECOMMENDED AYES: ALL**

**APPROVAL OF CONSENT AGENDA CALENDAR** (Items #1 - 24)

**APPROVED AS RECOMMENDED AYES: ALL**

**GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)**

10:30 A. M.

**PUBLIC WORKS - PUBLIC HEARING**

To consider Negative Declaration/Initial Study for the proposed Merced Courts Facility which would be located on the south side of 23rd Street between M and N Streets in Merced

**REVIEW BOARD ORDER – SEE PAGE 7**

**PLANNING - PUBLIC HEARING**

General Plan Amendment No. 03013 - Planada Community Plan Update

An updated Planada Community Plan and Negative Declaration for the unincorporated community of Planada, located approximately 4 miles east of the City of Merced along State Highway 140 which is proposed for adoption by the County of Merced. Said Project includes an updated Community Plan with Chapters on land use, community design, circulation, open space and conservation and public services and safety

**REVIEW BOARD ORDER – SEE PAGES 8, 9 AND 10**

**PLANNING - PUBLIC HEARING**

2003 Cycle IV General Plan Amendment and Zone Changes  
General Plan Amendment No. 03013, Planada Community Plan Update

**REVIEW BOARD ORDER – SEE PAGE 10**

**REPORTS/BOARD DIRECTION**

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

**LUNCH BREAK**

CONSENT CALENDAR (Items #1 - 24)

**APPROVED AS RECOMMENDED–PULLING ITEM NO. 23 FOR SEPARATE DISCUSSION AYES: ALL**

Public Works

1. Accept the Final Map for El Capitan Estates Phase 2 Subdivision in the Franklin-Beachwood area.

2. Approve Plans and Specifications for the Recorder's Office Expansion in the County Administration Building and authorize Public Works to advertise for competitive bids and set the bid opening for January 8, 2004 at 3:00 p.m.
3. Set First Reading for January 13, 2004 at 10:30 a.m. to consider proposed Ordinance To Allow the Public Works Director to approve the use of amplified music in outdoor areas of Merced County Parks (Repeals Ordinance No. 1388 and amends Chapter 10.28 of the County Code).
4. Set public hearing for January 27, 2004 at 10:30 a.m. to consider the Mitigated Negative Declaration/Initial Study for a proposed County Office Building and Expansion of the existing County Court Facility located in the City of Los Banos, CA.

#### Public Works-Castle

5. Approve and authorize Chairman to sign Addendum to Contract No. 2003017 with Valley Motorcycle Training, Inc. for Classroom and Training area located at Buildings 411 and 1340.

#### Sheriff

6. Approve and authorize Chairman to sign Renewal Contract No. 2003013 with Merced County Office of Education for one school officer to support both Weaver and Planada School Systems.

#### Counsel

7. Approve and authorize Chairman to sign Amendment to Contract No. 2003076 with Law Firm of Porter, Scott, Weiburg and Delehant for Special Legal Services.
8. Deny Tax Refund Claims filed by Hilmar Cheese Company, American Meat Protein Corporation and Hilmar Whey Protein, Inc.

#### Budget Transfer

9. Approve Budget Transfer from CEO-Children and Families First Commission-\$5,000.

#### Travel Request

10. Approve Travel Request submitted by Sheriff-Coroner.

#### Business-Economic Opportunities

11. Approve and authorize Chairman to sign Renewal Contract No. 9937 with Tangent Computer, Inc. for FOCUS Program Procurement Vehicle.

#### Child Support Services

12. Approve and authorize Chairman to sign Renewal Contract No. 200171 with Print-N-Mail, Inc. for mailing of Child Support monthly Barnes Notices.

#### Human Services Agency

13. Approve and authorize Chairman to sign Renewal Contract No. 200058 with the City of Los Banos for Answers Benefiting Children (ABC) Program office space.

Community Action Agency

14. Approve and authorize CAB Chair to sign Renewal Contract with Lowe Investment Corporation for the Livingston WIC Site Facility.
15. Approve and authorize CAB Chairman to sign Amendment to Contract with State Dept. of Health Services for WIC Supplemental Nutrition Program.
16. Approve and authorize CAB Chair to sign Amendment to Contract with Dietary Directions, Inc. for WIC Supplemental Nutrition Programs Consulting Agreement for an increase in consultant wages.
17. Approve and authorize CAB Chair to sign Renewal Contract with Winton Community Hall Board for CHERISH site Facility lease agreement.
18. Approve and authorize CAB Chair to sign Contract with State National Guard for the Armory use as a cold weather shelter for the homeless.
19. Approve and authorize submittal of CAA Basic Head Start Program Grant Refunding Application with the State Head Start Regional IX Office for FY 2004/2005.
20. Accept and place CAA Information, Staff and Committee Reports on file.

Board of Supervisors

21. Adopt the 2004 Board Meeting Calendar.
22. Authorize County employees to participate in the United Way Campaign, authorize appropriate Staff to conduct the campaign for County employees and authorize the use of payroll deduction; adopt Proclamation in support of United Way efforts in the County of Merced; direct all Department Heads to appoint a department coordinator to ensure every employee receives an information brochure and pledge card.
23. Set public hearing for December 23, 2003 at 10:30 a.m. to consider an Appeal to Conditional Use Permit #03001 - Proposed Brasil Dairy.  
**REVIEW BOARD ORDER – SEE PAGE 7**
24. Set public hearing for January 13, 2004 at 10:30 a.m. to consider Administrative Application No. 98006 submitted by Hargurnam Singh.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

25. Sale Agreement with Joel E. Cozzi to sell surplus property at County Fire Station No. 75 located at the Dos Palos Y for Fair Market Value and authorizing signing of Contract and Grant Deed.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003270 AYES: ALL**
26. Authorize expenditure of Special Board Project Funds-District No. 4 to Merced County Chamber of Commerce to be utilized for the County of Merced Sesquicentennial Celebration and approve the necessary budget transfer-\$1,800. (#020)  
**APPROVED AS RECOMMENDED AYES: ALL**

27. Authorize expenditure of Special Board Project Funds-District No. One toward the purchase of a micro-cassette recorder and accessories for the Planada Municipal Advisory Council.  
**APPROVED AS RECOMMENDED AYES: ALL**

28. Authorize development and issuance of a Request for Proposal (RFP) for the purchase of one compressed natural gas powered bus with the option to purchase up to 49 additional buses over a 5-year period and return to the Board with a recommendation on the contract award.  
**APPROVED AS RECOMMENDED AYES: ALL**

**PUBLIC WORKS-CASTLE**

29. Contract with Bruce Hoagland for approximately 3,600 square feet of concrete parking ramp area at Castle Airport for Aircraft Hangar.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003268 AYES: ALL**

30. Contract Award to Mer-Cal Electric, Inc. for Acquisition and Installation of Rotating Beacon Light at Castle Airport and authorize donation of the existing Airport Beacon to the Castle Air Museum.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003269 AYES: ALL**

**SHERIFF**

31. Contract with Sentinel Offender Services, LLC for Pilot Program for Electronic Automated Check-In and Fee Payment System for offenders assigned to alternatives to custody.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003271 AYES: 2, 3, 4, 5**  
**NOES: 1**

**UC DEVELOPMENT OFFICE**

32. Contract with EIP Associates for re-circulation of the Hydrology Chapter of the University Community Plan Draft EIR.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003272 AYES: ALL**

**HEALTH**

33. Contract with Calif. Integrated Waste Management Board for the Household Hazardous Waste Discretionary Grant Contract; approve the Capital Improvement Projects at the Highway 59 and Billy Wright HHW Sites; authorize release of any necessary Request for Proposal to secure a qualified contractor to conduct the site improvements; authorize Director of Environmental Health to sign all payment requests; approve the necessary budget transfers-\$410,515 and adopt Resolution.  
**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003267 AND ADOPTED RESOLUTION NO. 2003-215 AYES: ALL**

34. Reaffirmed approval of the distribution of funds in the Physician Account as amended by SB 476 on a monthly basis; approve the distribution of funds in the Hospital Account on a 50/50 basis between MMCM (County Hospital) and Non-County Hospitals based upon the rates of the respective percentage of physician emergency room claims submitted by each currently eligible hospital for the previous fiscal year after receipt of a statement that they have provided disproportionate trauma and emergency medical services care in a currently licensed emergency room setting and authorize disbursements of funds remaining in the fund at the end of the fiscal year proportionally based on the dollar amount of claims submitted and paid to all physicians and surgeons who submitted claims during the year.  
**APPROVED AS RECOMMENDED AYES: ALL**

35. Contract with Mountain-Valley EMS Agency regarding the coordination and management of the Trauma System.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003273 AYES: ALL**

**MENTAL HEALTH**

36. Contract with Lifestyle Management, Inc. to provide First Offender Drinking Driver Program Services to Merced County residents.

**AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2003274 AYES: ALL**

**BOARD APPOINTMENTS**

**BOARD INFORMATION & POSSIBLE ACTION**

**ACCEPTED AND PLACED ON FILE AYES: ALL**

37. Dept. of Workforce Investment re: 2002/2003 WIA Subgrant Agreement R380515, Modification 6, with the State Employment Development Department.
38. Great Valley Center re: Review of efforts of the GVC and request for contributions to continue the programs.
39. Atwater Elementary School District re: General Obligation Bond Election - March 2, 2004 and request for consolidate with elections being conducted within the District on March 2, 2004 Election Date. (On file with Clerk)
40. Stanislaus County Office of Education re: Notice of Election Results on proposed creation of the Turlock Joint Unified School District Ballot Measure.
41. Merced County Office of Education re: Notice of Election Results in Merced County on proposed creation of the Turlock Joint Unified School District Ballot Measure.
42. San Joaquin Valley Air Pollution Control District re: Notice of Public Workshop on Voluntary Reclassification of the San Joaquin Valley Air Basin to Extreme Nonattainment for the Federal 1-Hour Ozone Standards.
43. Calif. State University, Sacramento re: 2004-2005 Capital Fellowship Programs. (On file with Clerk)
44. Governor's Office of Emergency Services re: Letter from U.S. Dept to Agriculture requesting designation of Merced County as a disaster area due to the series of adverse weather conditions that occurred from April through August, 2003.
45. Federal Emergency Management Agency re: Letter of Map Revision - El Capital Estates Phase I request for consideration of property being removed from the Special Flood Hazard Area.
46. State Board of Equalization re: Distribution of property tax communications beginning January, 2004.
47. State Board of Equalization re: Mariposa County Assessment Practices Survey, November 2003. (On file with Clerk)

**ADOPTED RESOLUTIONS IN MEMORY OF HELEN BISSIG AND IDY SPYCHER AND  
ADJOURNED MEETING UNTIL TUESDAY, DECEMBER 16, 2003 AT 10:00 A.M.**

## **BOARD ORDERS – SUMMARY ACTION MINUTES – FOR DECEMBER 9, 2003**

### **CONSENT ITEM NO. 23** **2003-12-09 PLANNING**

Joe Mitchell advises several individuals have filed the appeal to Conditional Use Permit No. 03001 and one of the individuals, Earl Smith of Windmill Farms, is not available on the proposed public hearing date of December 23, 2003. He requests the public hearing be set for the latter part of January, 2004.

Planning Director Bill Nicholson states the applicant has been in the process with this issue for several years.

Discussion is had on receiving full public input, accommodating the appellants and the effect upon Mr. Brasil and his dairy operation and costs.

Following discussion, Supervisor Kelsey moves, seconded by Supervisor Nelson, the Board set the public hearing for December 23, 2003, at 10:30 a.m. to consider an Appeal to the Planning Commission decision on Conditional Use Permit No. 03001, Proposed Brasil Dairy.

The Chairman calls for a vote on the motion. Motion carries.

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

Noes: Crookham

### **10:30 A.M. SCHEDULED ITEM** **2003-12-09 PUBLIC WORKS - PUBLIC HEARING**

The time and date previously set for a public hearing to consider a Negative Declaration/Initial Study for the proposed Merced County Courts Facility which would be located on the south side of 23<sup>rd</sup> Street between M and N Streets in Merced.

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

Upon motion of Supervisor Kelsey, seconded by Supervisor Cortez Keene, duly carried, the Board finds the Negative Declaration reflects the County's independent judgment and analysis on this project and adopts the Negative Declaration/Initial Study for a new Merced County Courts Facility to be located on the south side of 23<sup>rd</sup> Street between "M" and "N" Streets, in Merced.

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

**10:30 A.M. SCHEDULED ITEM**  
**2003-12-09 PLANNING – PUBLIC HEARING**

The time and date previously set for a public hearing to consider General Plan Amendment No. 03013, The Planada Community Plan Update and Negative Declaration for the unincorporated community of Planada, located approximately 4 miles east of the City of Merced along State Highway 140 which is proposed for adoption by the County of Merced. Said project includes an updated Community Plan with chapters on land use, community design, circulation, open space and conservation and public services and safety.

Planning Director Bill Nicholson reviews the History of the Project and submits letters received from Mary L. Furey and Planada Municipal Advisory Council Chairperson Ruth Stone.

Deputy Planning Director Butch Cope reviews the Staff Report and recommendations.

Planner Gary Conte reviews the proposed Design Guidelines for the proposed Community Plan and reviews the Errata Sheet outlining three main changes the Planning Commission made to some of the Findings in the Plan. He advises Planning staff reviewed changes with the Planada Municipal Advisory Council and the members were not receptive to the changes.

Mr. Cope advises Public Works has been working with a traffic consultant and has recommendations for bridges and road expansions.

Planning Consultant Richard Borchard reviews some of the CEQA related comments that were received.

The Board discusses the conversion of Agricultural land and how it is to be mitigated.

The Board discusses Community Character and Design Guidelines.

Supervisor Kelsey states since the County will be updating Community Plans for the entire County, the Board should consider a Design Review Committee for those future projects which would allow for a consistent theme throughout the community.

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

Tom Stillman speaks in support of the Plan and submits documentation requesting parcel 037-051-050 be included in the General Commercial Zone along Highway 140.

Les McCabe, representing the Merced County Farm Bureau, speaks regarding agriculture mitigation and states the Farm Lands and Open Space Trust would be the appropriate group to implement mitigation with the government entities enforcing the requirements set forth. He suggests a broad-based committee with all constituencies be formed to discuss the County's General Plan, mitigation, etc. and advises the Farm Bureau is willing to assist in implementing such a meeting and proceed toward a General Plan Amendment. The other area of concern is the relocation of the farm labor camp.

Mr. Nicholson advises the Housing Authority administers all housing for migrant camps and it is not a matter that is before the Board of Supervisors or Planning Commission.



John Colbert, an owner on property northwest of Plainsburg and Childs Avenue, states he has been farming almonds on this property since 1994 and the orchard is now past its prime so this is a good time to consider changing the use of this property. Mr. Colbert submits a map showing the property as residential reserve.

Mary Furey, resident of Planada, refers to a letter directed to the Board dated December 8, 2003, and speaks in support of the Plan as it was submitted to the Planning Commission, without the changes as requested by the developers.

Attorney Richard Harriman speaks regarding the buffer concept between the Urban Development and Agriculture land use and questions what would happen to the buffer should the land use change. He also speaks on the conversion of agricultural land and what constitutes a significant impact.

David Corser, Planada Community Development Corporation, reviews a list with 179 names of individuals with regard to relocating the Farm Worker Housing and changing the zoning to Medium Density Residential. He requests the Board reject the boundary change and leave the Farm Worker Housing at its current location.

John Sessions, H/S Development, states he is interested in the 60 acres and reviews the Errata Sheet and changes made by the Planning Commission.

John Chavez, Planada resident, speaks in support of the Plan stating he feels there won't be any difficulty selling the homes. Mr. Chavez urges the Board and Public Works Director to consider redesignating the Planada area to take it out of the flood zone.

Jesus Colmenero, Planada resident, states Planada needs more low income housing and speaks in support of a Design Review Committee for structures not for demographics. Mr. Colmenero objects to the three changes the Planning Commissioners are recommending at the suggestion of the developers.

The Board discusses the changes that are being recommended by the Planning Commission, the future formation of a Design Review Committee and ag. land mitigation.

Following discussion, Supervisor Cortez Keene moves, seconded by Supervisor Kelsey, the Board find the Negative Declaration reflects the County's independent judgment and analysis; approve General Plan Amendment No. 03013; approve the Mitigated Negative Declaration for the unincorporated community of Planada as recommended by the Planning Commission with the understanding if there is difficulty with language, the Errata Sheet can be re-circulated within the community for modification.

Planning Director Bill Nicholson states Planning Consultant John Wilbanks suggested to allow for more flexibility within the Plan the following language can be added to Page 3-1 of the Community Character and Design Guidelines: "Where meeting the full intent of these guidelines creates a demonstrative hardship, or otherwise is not possible, an exception to the standard may be granted by the Board of Supervisors or Planning Commission, with the Planada Municipal Advisory Council's input, as part of the project approval."

Supervisor Cortez Keene amends the motion to add the suggested language to the Community Character and Design Guidelines portion of the Community Plan.

Supervisor Kelsey seconds the motion as amended.

The Chairman calls for a vote on the Amended Motion. Motion carries.

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

**10:30 A.M. SCHEDULED ITEM**  
**2003-12-09 PLANNING – PUBLIC HEARING**

The time and date previously set for a public hearing to consider 2003 Cycle IV, General Plan Amendment No. 03013, Planada Community Plan Update.

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

Upon motion of Supervisor O'Banion, seconded by Supervisor Cortez Keene, duly carried, the Board adopts the 2003 Cycle IV General Plan Amendment No. 03013, Planada Community Plan Update and adopts Resolution No. 2003-216.

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