



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, SEPTEMBER 14, 2004

Closed Session – 8:00 a.m.

Regular Meeting – 10:00 a.m.

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

GLORIA CORTEZ KEENE.....DISTRICT 1
KATHLEEN M. CROOKHAM.....DISTRICT 2
MICHAEL G. NELSON.....DISTRICT 3
CHAIR 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.*

SCHEDULED ITEMS

8:00 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) Business-Economic Opportunities Director pursuant to Section 54956.8 as follows:
Property/Reference: Development Services Facility

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9: One Case

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION: It is the intention of the Board to meet in Closed Session concerning Existing Litigation pursuant to Subdivision (a) of Section 54956.9: Richard Hunter v. County of Merced, Merced Superior Court #147106

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Subdivision (f) of Section 54957.6 concerning a Conference with County of Merced Staff Negotiators concerning negotiations with American Federation of State, County and Municipal Employees (AFSCME), Units 4, 5, 6 and 8; Independent Employees of Merced County (IEMC), Unit 3; Merced County Lawyers Association, Unit 7; Merced County Sheriff Employee Association (MCSEA), Unit 2; Merced County Law Enforcement Sergeants, Unit P and Deputy Sheriff Association, Unit 10

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Subdivision (e) of Section 54957.9: Conference with Legal Counsel-Determination to Initiate Litigation: One Case

THE BOARD RECESSED AT 8:00 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND ADVISED THERE WERE NO REPORTABLE 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: Dustin Costa, Dennis Saxton, Bryant Owens and Sheriff Mark Pazin

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Fire-\$7,500 and Sheriff-\$6,000

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 16)

APPROVED AS RECOMMENDED AYES: ALL

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

10:30 A. M.

PUBLIC WORKS - CONTINUED PUBLIC HEARING (4/5 VOTE REQUIRED)
To consider Resolution of Necessity to institute eminent domain proceedings to acquire interests in real property for the construction of the Avenue Two Bridge at Canal Creek Project

REVIEW BOARD ORDER – SEE PAGE 9

PLANNING - PUBLIC HEARING

Appeal of the Planning Commission Denial of Minor Subdivision Application No. 04015. Application filed by Ronald Martella to divide a 52.9 acre parcel into 2 parcels. Parcel 1=20 acres and Parcel 2=32.9 acres on property located north of Shaw Road 1/2 mile east of Buhach Road in the Winton area

REVIEW BOARD ORDER – SEE PAGE 9 AND 10

PLANNING - PUBLIC HEARING

General Plan Text Amendment No. 03004 submitted by Merced County. Said Application is for minor revisions to the Merced County Housing Chapter of the Merced County General Plan in order to meet State Dept. of Housing and Community Development requirements. These revisions include text modifications for the following topic areas: infrastructure capacities and financing, permit processing procedures for homeless shelters, housing accessibility for persons with disabilities, building fees and subsidized units at risk for conversion

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 - 16)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Approve plans and specifications for the Household Hazardous Waste Facilities Improvements at the Highway 59 and Billy Wright Landfill sites and authorize Public Works to obtain competitive bids and to return to the Board with a recommendation to the lowest responsive bidder.
2. Adopt Resolution accepting the required Easement Deed from Walter and Afton Falke for acquisition of 500 square feet necessary for construction of permanent traffic signals at the intersection of SR165 and Bloss Avenue in Hilmar and authorize Chairman to sign the Right of Way Contract.

AUTHORIZED CONTRACT NO. 2004270 AND RESOLUTION NO. 2004-168

3. Adopt Resolution accepting the required Easement Deed from Wallace and Bonnie Falke for acquisition of 1,000 square feet necessary for construction of permanent traffic signals at the intersection of SR165 and Bloss Avenue in Hilmar and authorize Chairman to sign the Right of Way Contract.

AUTHORIZED CONTRACT NO. 2004271 AND RESOLUTION NO. 2004-169

4. Adopt Resolution accepting the required Easement Deed from the Board of School Trustees of the Winton School District for acquisition of land necessary for construction of the Walnut Avenue at Center Street Improvement Project in Winton and authorize Chairman to sign the Right of Way Contract.

AUTHORIZED CONTRACT NO. 2004272 AND RESOLUTION NO. 2004-170

5. Adopt Resolution accepting the required Easement Deed from Salvador and Carmen Navarrete for acquisition of land necessary for construction of Walnut Avenue at Center Street Improvement Project in Winton and authorize Chairman to sign the Right of Way Contract.

AUTHORIZED CONTRACT NO. 2004273 AND RESOLUTION NO. 2004-171

6. Adopt Resolution accepting a Grant Deed from Abel Montanez and Maria Montanez for additional road right-of-way and public utility easement purposes associated with Administrative Permit No. 03018 in the Livingston area.

ADOPTED RESOLUTION NO. 2004-172

Sheriff

7. Approve and authorize Chairman to sign Renewal Contract No. 2003157 with Hilmar School District for Canine Patrol Services.
8. Approve and authorize Chairman to sign Renewal Contract No. 2003249 with City of Atwater for Law Enforcement Communications Assistance.
9. Approve and authorize Chairman to sign Renewal Contract No. 2004282 with Jerry Rogers for Delhi Community Law Enforcement Office lease.

Claims for Damages

10. Act on Claims for Damages submitted by Katherine A. Snow, John Castillo, Dee Akers, Carlos Gonzalez, Richard Cervantes, Timothy Pendable, David Costa and Frances Hermann-Dykmans.

Ag. Commissioner

11. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 2004002 with Calif. Dept. of Food and Agriculture for Nursery Stock Nematode-Free Certification Inspections.

ADOPTED RESOLUTION NO. 2004-173

Fire

12. Approve and authorize Chairman to sign Amendment to Contract No. 2004283 with City of Atwater-Atwater Fire District for the Automatic Aid Agreement for Fire Protection Services.
13. Accept Report on Grant Funding received in the amount of \$2,216,805.25 being coordinated by Merced County Office of Emergency Services and authorize recognition of efforts to complete needed projects on behalf of all governmental agencies within Merced County.

Executive Office

14. Approve and authorize Chairman to sign Renewal Contract No. 2004284 with Cooperative Personnel Services for Security and Testing Services.

Board of Supervisors Office

15. Reschedule the public hearing set for September 28, 2004 to October 19, 2004 at 10:30 a.m. to consider General Plan Amendment No. 03006 - Michael Gallo/5 G's Corp.- the Yosemite Lakes Estates General Plan Amendment at the request of the applicant.

Board Recognition

16. Authorize Certificate of Recognition to Mary Inderbitzen for 21 years and Mona Lis for 15 years of dedicated service to the Merced City School District.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

17. Accept U. S. Dept. of Agriculture Grant Offer of \$13,300 to help fund the Re-roof of the Planada Community Hall, adopt Resolution and approve necessary budget transfer.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004274 AND ADOPTED RESOLUTION NO. 2004-174 AYES: ALL
18. Authorize issuance of Purchase Order in the amount of \$3,760.08 to Precision Inspection Company, Inc. for plan checking services and amends the limit to \$15,000.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004285
19. Authorize Public Works to proceed with the design of the signalization and channelization of Buhach Road and Ashby Road Intersection.
APPROVED AS RECOMMENDED AYES: ALL
20. Authorize an increase of \$2,000 in the Total Project Budget from \$37,000 to \$39,000, approve the necessary budget transfer and award the Contract for the Atwater Veterans Building Restroom Remodel to John Rohrer Construction Company (#001).
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004275 AYES: ALL
21. Authorize negotiation of Lease Agreement with Bear Country Pre-School Day Care Center located at the Human Services Agency Facility, approve depositing the Revenue received from the lease into Budget Unit 16000/94210, PW-Bldg Serv.-Rents and Concessions and directs Public Works to return with a lease for Board consideration.
APPROVED AS RECOMMENDED AYES: ALL
22. Authorize project to widen existing door openings and installation of new doors at the Le Grand and El Nido Fire Stations; approve the estimated project budget of \$33,000; approve plans and specifications and authorize competitive bids with recommendation to come back on the lowest responsive bidder and approve the necessary budget transfer.
APPROVED AS RECOMMENDED AYES: ALL

DISTRICT ATTORNEY

23. Approve the Federal Annual Certification Report and authorize the Chairman to sign the Federal Annual Certification Contract with funds received through the Federal Equitable Sharing Program with the U.S. Dept. of Justice.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004276 AYES: ALL

SHERIFF

24. Contract Lease of 1998 Chevy Tahoe Vehicle from the National Insurance Crime Bureau due to the success in deterring auto theft in Merced County.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004286 AYES: ALL

FIRE

25. Accept Grant from State of California-Dept. of Forestry and Fire Protection to provide volunteer fire assistance program for fire departments in rural communities under the CDF Rural Community Fire Protection Program in the amount of \$20,000, adopt Resolution and approve the necessary budget transfer (4/5 Vote Required).

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004287 AND ADOPTED RESOLUTION NO. 2004-175 AYES: ALL

26. Accept replacement from Calif. Office of Emergency Services to replace OES Engine 180 (1974 model) with OES Engine 263 (1998 model) from Weststates with Freightliner chassis to be housed at the McKee Fire Station and authorize Contract with Calif. Office of Emergency Services to accept the Transfer of Vehicular Equipment.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004288 AYES: ALL

PLANNING

27. Contract with Self-Help Enterprise, Inc. for consultant services to implement and administer Grant in the amount of \$400,000 to be used for First Time Homebuyer Assistance Countywide (No. 03-HOME-0658), including HOME Program Income and Technical Assistance necessary to prepare grant applications and approve the necessary budget transfer in the amount of \$33,400. (4/5 Vote Required).

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004277 AYES: ALL

HUMAN SERVICES AGENCY

28. Contract with Merced Lao Family Community, Inc. for Home Visitor Services for Child Abuse Prevention Intervention and Treatment (CAPIT) Project and Funding.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004278 AYES: ALL

29. Contract with Merced Lao Family Community, Inc. for Home Visitor Services promoting Safe and Stable Families (PSSF) Project and funding.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004279 AYES: ALL

RETIREMENT

30. Adopt recommended Retirement System Contribution Rates and Interest Rates for FY 04/05 effective September 24, 2004 payroll as follows: TIER 1 General: 6.68% Normal Cost, 1.37% Unfunded Liability (UAAL), Total 8.05%; TIER 2 General: 6.03% Normal Cost, 1.37% UAAL, Total 7.40%; TIER 1 Safety: 17.29% Normal Cost, 8.18% UAAL, Total 25.47%; TIER 2 Safety: 12.86% Normal Cost, 8.18% UAAL, Total 21.04% with Interest Rate unchanged.

APPROVED AS RECOMMENDED AYES: ALL

TREASURER-TAX COLLECTOR

31. Authorize Release of Request for Proposal to perform Parties of Interest Research on Tax Defaulted Properties to be Offered for Sale at Auction with recommendation to be returned to the Board on the most responsive provider for final contract award.

APPROVED AS RECOMMENDED AYES: ALL

32. Authorize Release of Request for Proposal to solicit bids for purchasing a Remittance Processing Machine with recommendation to be returned to the Board on the most responsive provider for final contract award.

APPROVED AS RECOMMENDED AYES: ALL

AUDITOR-CONTROLLER/CLERK

33. Approve the Consolidations of Districts for the November 2, 2004 General Election as requested as follows: Los Banos School District, Planada School District, Yosemite College District, City of Atwater, City of Dos Palos, City of Gustine, City of Livingston, City of Los Banos and City of Merced.

APPROVED AS RECOMMENDED AYES: ALL

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

ADOPTED RESOLUTION NO. 2004-176 AYES: ALL

EXECUTIVE OFFICE

35. Authorize Response Letter to the Presiding Judge of the Superior Court to the 2003/2004 Grand Jury Report.

APPROVED AS RECOMMENDED AYES: ALL

36. Authorize Overhire of one Personnel Technician (Position #016 in BU 13000); one Correctional Officer (Position #073 in BU 23000) and one Security Systems Operator (Position #097 in BU 23000) for Limited Term Appointment.

APPROVED AS RECOMMENDED AYES: ALL

37. PULLED

BUSINESS-ECONOMIC OPPORTUNITIES

38. Declare the bleachers located at Castle Airport as Surplus Property and authorize the transfer to the Atwater Youth Football Falcons, a 501c(3) corporation for community use.

APPROVED AS RECOMMENDED AYES: ALL

39. Contract with ProActive Video for Telecommunications Technology Solutions in connection with the FOCUS Program, authorize Award Announcement Letter and use of such services and products as defined under the FOCUS contract without the necessity for any further bid process and adopt Resolution.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004289 AND ADOPTED RESOLUTION NO. 2004-177 AYES: ALL

40. Contract with Anixter, Inc. for Telecommunications Technology Solutions in connection with the FOCUS Program, authorize Award Announcement Letter and use of such services and products as defined under the FOCUS contract without the necessity for any further bid process and adopt Resolution.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004290 AND ADOPTED RESOLUTION NO. 2004-178 AYES: ALL

41. Contract with InterPlex International, LLC for Telecommunications Technology Solutions in connection with the FOCUS Program, authorize Award Announcement Letter and use of such services and products as defined under the FOCUS contract without the necessity for any further bid process and adopt Resolution.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2004291 AND ADOPTED RESOLUTION NO. 2004-179 AYES: ALL

42. Approve release of the Fast Open Contracts Utilization Services (FOCUS) Program Request for Joint Venture Proposal (RFJVP) for computers and software solutions with recommendation and contracts to come back to the Board for final award and approval.

APPROVED AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

43. District Four - Snelling Cemetery District.

APPOINTED JOE SOUZA TO SERVE AS A MEMBER OF THE SNELLING CEMETERY DISTRICT UNTIL JULY 1, 2006 AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

44. East Merced Resource Conservation District re: Mustang Creek Flood Control Project Operation and Maintenance Funds and request for termination of any and all agreements to perform the Project.

THE BOARD REFERRED THE MATTER TO PUBLIC WORKS FOR REVIEW AND POSSIBLE BOARD ACTION

45. Dept. of Workforce Investment re: 2004/2005 Workforce Investment Act Subgrant Agreement Modification No. 1 with the State Dept. of Employment Development Department.

ACCEPTED AND PLACED ON FILE AYES: ALL

46. California's Against the Deceptive Gambling Proposition re: Request for consideration of Resolution Opposing Proposition 68.

THE BOARD REFERRED THE CORRESPONDENCE TO THE SEPTEMBER 21, 2004 AGENDA FOR FURTHER ACTION

47. California-Mexico Health Initiative re: Request for endorsement of Binational Health Week.

THE BOARD REFERRED THE LETTER TO THE SEPTEMBER 21, 2004 AGENDA FOR FURTHER ACTION

ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF JOSEPH ROBERT "BOB" STEFANI, MARY LOO BURROUGHS AND JOHN WILLIAM (BILL) DOANE UNTIL TUESDAY, SEPTEMBER 21, 2004 AT 10:00 A.M.

BOARD ORDERS - SUMMARY ACTION MINUTES – SEPTEMBER 14, 2004

10:30 A.M. SCHEDULED ITEM

2004-09-14 PUBLIC WORKS – PUBLIC HEARING

The time and date previously set for the public hearing to consider a Resolution of Necessity to institute eminent domain proceedings to acquire interests in real property for the construction of the Avenue Two Bridge at Canal Creek Project submitted by Public Works.

Upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried the Board continues this item until the next Board Meeting to be held on September 21, 2004.

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

10:30 A.M. SCHEDULED ITEM

2004-09-14 PLANNING – PUBLIC HEARING

The time and date previously set for the public hearing to consider an Appeal of the Planning Commission Denial of Minor Subdivision Application No. 04015. Said application filed by Ronald Martella to divide a 52.9 acre parcel into 2 parcels, Parcel 1=20 acres and Parcel 2=32.9 acres on property located north of Shaw Road ½ mile east of Buhach Road in the Winton area.

Planning and Development Director Bill Nicholson reviews the Staff Report advising the Planning Commission has denied this application.

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

Property owner David Gonzalves, also speaking for Mary Crane Coughman, states concerns against the subdivision and asks the Board to deny the appeal.

Applicant Ronald Martella advises there are no hidden agendas and he is not planning on selling the property.

Mr. Nicholson states the application, as shown in Condition No. 3, has annotated on the parcel map an additional 10 foot width of road right-of-way along the entire frontage of Shaw Avenue.

Public Works Director Paul Fillebrown states maintenance on the road can be terminated and a gate could be put up if the residents agreed, but it would still be a public road and to terminate the road maintenance would have to be a separate Board Action.

Following a lengthy discussion, Supervisor Kelsey moves, seconded by Supervisor O'Banion, to continue this public hearing for one month.

Supervisor O'Banion states the roadway is a separate issue

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

10:30 A.M. SCHEDULED ITEM
2004-09-14 PLANNING – PUBLIC HEARING

The time and date previously set for the public hearing to consider General Plan Text Amendment No. 03004 submitted by Merced County. Said application is for minor revisions to the Merced County Housing Chapter of the Merced County General Plan in order to meet State Department of Housing and Community Development requirements and include revisions and text modifications for the following topic areas: Infrastructure capacities and financing, permit processing procedures for homeless shelters, housing accessibility for persons with disabilities, building fees and subsidized units at risk for conversion.

Planning and Development Director Bill Nicholson reviews the Staff Report with a recommendation for the Board to make an intended decision to adopt General Plan Text Amendment No. 03004 and authorize Staff to forward the revised Housing Chapter to the State Department of Housing and Community Development for final certification.

Senior Planner John Levan reviews the revisions made to the Housing Chapter of the General Plan.

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 makes an intended decision to adopt General Plan Text Amendment No. 03004 and authorizes Staff to forward the revised Housing Chapter to the State Department of Housing and Community Development for final certification.

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

SUMMARY ACTION MINUTES

MERCED COUNTY IN-HOME SUPPORTIVE SERVICES (IHSS) PUBLIC AUTHORITY

Regular Meeting
TUESDAY, SEPTEMBER 14, 2004
8:00 A. M.

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

DEMITRIOS O. TATUM
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SCHEDULED ITEMS

8:00 A. M.

IN-HOME SUPPORTIVE SERVICES (IHSS) PUBLIC AUTHORITY

CLOSED SESSION: It is the intention of the IHSS Public Authority to meet in Closed Session pursuant to Subdivision (f) of Section 54957.6 concerning Conference with County of Merced Staff Negotiators(s) and United Domestic Workers (UDW)

THE BOARD RECESSED AT 8:00 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND ADVISED THERE WERE NO REPORTABLE ITEMS

SUMMARY ACTION MINUTES

COMMUNITY ACTION AGENCY GOVERNING BOARD

Regular Meeting
TUESDAY, SEPTEMBER 14, 2004
10:00 A. M.

MERCED COUNTY
ADMINISTRATION BUILDING
2222 "M" STREET
BOARD ROOM, THIRD FLOOR
MERCED, CALIFORNIA 95340
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DEMITRIOS O. TATUM
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REGULAR CALENDAR

BOARD ACTION

Community Action Board

1. Community Action Board re: Quitclaim Deed on Second Property to ensure appropriate title holder of deed is reflected as the Community Action Board.

APPROVED AS RECOMMENDED AYES: ALL