



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, JULY 26, 2005
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

JOHN PEDROZO.....DISTRICT 1
KATHLEEN M. CROOKHAM.....DISTRICT 2
MICHAEL G. NELSON.....DISTRICT 3
DEIDRE F. KELSEY.....DISTRICT 4
CHAIRMAN 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 Real Property Negotiator(s) John Fowler-Commerce, Aviation and Economic Development Director pursuant to Section 54956.8 as follows: Castle Property

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 (c) 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 (c) of Section 54956.9: National Railroad Passenger Corp. v. Admiral Merchants Motor Freight, et al., U.S. Federal District Court Case No. 1:05-CV-00807-REC-DLB

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Subdivision (e) of Section 54954.5: PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Title: County Counsel

THE BOARD RECESSED AT 8:30 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED DIRECTION WAS GIVEN TO STAFF

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA 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)

PRESENTATION - Building Hope Program update by Dr. Showalter
REVIEW BOARD ORDER – SEE PAGE 8

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 23)
APPROVED AS RECOMMENDED WITH THE EXCEPTION OF ITEM #11
AYES: ALL

10:30 A. M.

PUBLIC DEFENDER - PUBLIC HEARING - PROPOSED ORDINANCE, POSSIBLE ADOPTION

An Ordinance to consider Establishing a Fee for Services performed by the Merced County Public Defender (Adds Chapter 5.42 to the County Code)
REVIEW BOARD ORDER – SEE PAGE 8

PLANNING AND COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT - PUBLIC HEARING

To consider comments on past Community Development Block Grant Performances and on the County of Merced's Annual Grantee Performance Report, Program Income and Program Income Reuse Plan
REVIEW BOARD ORDER – SEE PAGES 8 AND 9

PLANNING - PUBLIC HEARING

To consider an Appeal of Planning Commission Denial of Minor Subdivision Application No. 05010 submitted by Brian and Rebecca Carter. Application is to divide a 40 acre parcel into two 20 acre parcels on property located 1320 feet south of Cottonwood Road and one mile west of Whitworth Road in Gustine

REVIEW BOARD ORDER – SEE PAGES 9 AND 10

AUDITOR-CONTROLLER - PUBLIC HEARING - PROPOSED ORDINANCE, POSSIBLE ADOPTION

An Ordinance setting Auditor-Controller Fees for 2005/06 and 2006/07 Fiscal Year (Amends Title 5, Chapter 5.60 of the County Code)

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 - 23)

Public Works

- 1. Adopt Resolution annexing Minor Subdivision No. 01022 into Robinson Estates Street Lighting and Storm Drainage Maintenance Zone of Benefit No. 317 in County Service Area Number One.
ADOPTED RESOLUTION NO. 2005-134
- 2. Adopt Resolution annexing Minor Subdivision No. 04059 into Hillside Storm Drainage Maintenance Zone of Benefit No. 113 in County Service Area Number One.
ADOPTED RESOLUTION NO. 2005-135A
- 3. Approve and authorize Chairman to sign Renewal Contract No. 2005165 with State Controller for preparation of Annual Street and Road Report of Fiscal Year 2004/2005.

Sheriff

- 4. Approve and authorize Chairman to sign Renewal Contract No. 2004344 with Weaver Union School District for contractual Deputy Sheriff.
- 5. Approve and authorize Chairman to sign Renewal Contract No. 2004265 with Franklin/Merced City School District for contractual Deputy Sheriff.

Mental Health

- 6. Approve and authorize Chairman to sign Renewal Contract No. 2003237 with Merced City School District for mental health services at school sites.

7. Approve and authorize Chairman to sign Renewal Contract No. 200240 with Sylmar Health & Rehabilitation Center for clients with severe behavioral problems who are in jeopardy of being placed in a State Hospital bed.
8. Approve and authorize Chairman to sign Renewal Contract No. 2005009 with Mental Health Systems, Inc. for Logan River Academy for residential care services and approve Travel for mental health staff who will provide on site case management for youth for four visits for a total of \$3,500.
9. Approve and authorize Chairman to sign Interdepartmental Renewal Contract No. 2004230 with Probation for onsite probation services to youth concurrently enrolled in Mental Health and Probation services.

Executive Office

10. Approve Travel Requests for Sheriff (2), Human Services Agency and Mental Health as recommended by Executive Office.
11. Approve and authorize Chairman to sign Renewal Contract No. 2003144 with The Standard Insurance Company for Group, Management and Voluntary Term Life Insurance.

NO ACTION TAKEN – PULLED FROM THE AGENDA

12. Approve and authorize Chairman to sign Renewal Contract No. 2003282 with Merced County Superior Court for Services and Reimbursement for Court Operations and direct Staff to begin discussions with the Courts regarding the FY 2006/07 renewal for services.

Commerce, Aviation and Economic Development

13. Authorize consent to sublet space in Castle Science and Technology Building No. 1015 by Challenger Learning Center Foundation to other educational entities to assist with meeting their operating expenses.

Ag. Commissioner

14. Adopt Resolution authorizing Chairman to sign Renewal Contract No. 2004247 with Calif. Dept. of Pesticide Regulation for Electronic Pesticide Use Reporting Services and Support.

ADOPTED RESOLUTION NO. 2005-136A

Board Recognition

15. Authorize Certificates of Recognition to Grand Marshals in the Merced County/Snelling Sesquicentennial Parade 1855-2005 - Hugh Boland, Ruth Cassinella, Horace Kelsey, George Naumann, Earl Souza, Donald Stout, Thelma Robinson, Ardon Woolstenhulme, Mazy Woolstenhulme, Josephine Nunes and Luella Richberger.
16. Proclaim July 10, 2005 as Snelling Courthouse Day in Merced County.
17. Authorize Certificate of Recognition to Larry D. Morse in recognition of 50 years of service to law and also service as an Advocate, Counselor, Advisor and Judge providing leadership, talent and service to the Community.
18. Authorize Certificates of Recognition to Heather Vann, Peter Fluetsch and Officer Richard Macchia for selection as 2005-2006 Community Volunteers by the Merced County Chamber of Commerce.

19. Authorize Certificate of Recognition to Mike Peterson in recognition of commitment and dedication to Merced County and participation in One Voice.
20. Authorize Certificate of Recognition to Kings View Work Experience Center in recognition of the new M.O.V.E. Room Grand Opening.
21. Authorize Certificate of Recognition to Helen Nixon for her dedicated service to education and as Vice Principal of Golden Valley High School.
22. Authorize Certificates of Recognition to Lourdes Clesson for selection as Arts Angel and Lee Andersen for selection as Arts Advocate by the Merced County Arts Council.
23. Authorize Certificates of Recognition to Leadership Merced Graduation Class 20 selected by the Greater Merced Chamber of Commerce.

REVIEW BOARD ORDER – SEE –PAGE 10

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

24. Contract with BSK Associates, Inc. for Contamination Assessment Services to determine the extent of soil and groundwater petroleum contamination at the site of a removed underground gasoline tank at the Merced County Spring Fairgrounds for a not-to-exceed amount of \$13,960.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005168 AYES: ALL

25. Contract with Viking Construction for Bloss Avenue at Highway 165 Signalization Improvement Project contingent to the Merced County Association of Governments Governing Board Approval of the FTIP amendment to obligate additional Federal Funding for the project.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005169 AYES: ALL

HUMAN SERVICES AGENCY

26. Contract with Merced County Office of Education for Child Abuse Victimization Services.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005170 AYES: ALL
27. Contract with Merced County Office of Education to provide Stage 1 and Cal Learn Child care services.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005171 AYES: ALL
28. Contract with The National Council on Crime and Delinquency for Web Based Information and Data Reporting for Child Welfare.
AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005172 AYES: ALL

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

29. Resolution authorizing Contract with Fairfax Imaging, Inc. for FOCUS Program Procurement Vehicle covering computer hardware and software solutions, authorize FOCUS Contract Award Announcement Letter and authorize utilization of such services/products as defined under FOCUS contract when in the best interests of the County without the necessity for any further bid process.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005166 AND ADOPTED RESOLUTION NO. 2005-137 AYES: ALL

30. Resolution authorizing Contract with Tech Depot-An Office Depot Company covering computer hardware and software solutions, authorize FOCUS Contract Award Announcement Letter and authorize utilization of such services/products as defined under FOCUS contract when in the best interests of the County without the necessity for any further bid process.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005167 AND ADOPTED RESOLUTION NO. 2005-138 AYES: ALL

MENTAL HEALTH

31. Contract with University of California, San Francisco School of Nursing for placement of student interns interested in forwarding their studies in the field of Mental Health.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005173 AYES: ALL

SHERIFF

32. Contract with 35th District Ag. Association for law enforcement/security services for the District Fair from July 18, 2005 through July 25, 2005.

AUTHORIZED CHAIRMAN TO SIGN CONTRACT NO. 2005174 AYES: ALL

EXECUTIVE OFFICE

33. Contract between Local Agency Formation Commission (LAFCo) and the County of Merced for daily operational support.

REVIEW BOARD ORDER – SEE PAGE 11

BOARD OF SUPERVISORS

34. Supervisor Pedrozo re: Resolution supporting Intercity Passenger Rail Service Programs and funding and authorize notification to appropriate legislative representatives.

ADOPTED RESOLUTION NO. 2005-139

35. Supervisor Nelson re: McSwain Municipal Advisory Council - Establishment and Appointments.

REVIEW BOARD ORDER – SEE PAGE 11

36. Retirement Board.

REAPPOINTED JIM LINDSAY TO SERVE AS A MEMBER OF THE RETIREMENT BOARD UNTIL JULY 1, 2008 AYES: ALL

BOARD APPOINTMENTS

37. District One - Le Grand Municipal Advisory Council.

APPOINTED LORRAINE BOCKS TO SERVE AS A MEMBER OF THE LE GRAND MUNICIPAL ADVISORY COUNCIL UNTIL DECEMBER 7, 2009 AYES: ALL

38. District One - Mental Health Advisory Board.

APPOINTED DR. HERBERT OPALEK TO SERVE AS A MEMBER OF THE MENTAL HEALTH ADVISORY BOARD, REPRESENTING DISTRICT ONE, UNTIL JUNE 30, 2006 AYES: ALL

39. District Three - Advisory Board on Alcohol and Other Drug Problems.

REAPPOINTED SUZANNA HAYCRAFT TO SERVE AS A MEMBER OF THE ADVISORY BOARD ON ALCOHOL AND OTHER DRUG PROBLEMS, REPRESENTING DISTRICT THREE, UNTIL JUNE 30, 2009 AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

40. Administrative Services re: Surplus Public Auction Update.

41. State Board of Equalization re: Taxpayers' Bill of Rights Hearings.

42. Federal Emergency Management Agency re: Notification of the Final Flood Elevation Determination for the unincorporated area of Merced County.

43. State Water Resources Control Board re: Notice of Public Workshop set for August 31, 2005 - Consideration of Potential Amendments or Revisions to the Delta Outflow Objective of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

ADOPTED RESOLUTION AND ADJOURNED MEETING IN MEMORY OF DELMA ROSE MARCHINI UNTIL TUESDAY, AUGUST 2, 2005 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – JULY 26, 2005

10:00 A.M. SCHEDULED ITEM

2005-07-26 PRESENTATION - Building Hope Program Update

Dr. Barbara Showalter submits and reviews the Building Hope Vision Statement and provides an update of the “Building Hope Program”. She states more individuals and groups need to be involved in the Program for community change and asks the Board to submit names of individuals.

Present: O’Banion, Pedrozo, Crookham, Nelson, Kelsey

10:30 A.M. SCHEDULED ITEM

2005-07-26 PUBLIC DEFENDER - PUBLIC HEARING - ORDINANCE NO. 1757

The time and date previously set for a public hearing to consider a Proposed Ordinance Establishing a Fee for Services performed by the Merced County Public Defender (Adds Chapter 5.42 to the Merced County Code) submitted by the Public Defender.

Upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board waives further reading of the proposed Ordinance titled An Ordinance Establishing a Fee for Services Performed by the Merced County Public Defender.

Ayes: O’Banion, Pedrozo, Crookham, Nelson, Kelsey

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

Upon motion of Supervisor Nelson, seconded by Supervisor Crookham, duly carried, the Board adopts Ordinance No. 1757.

Ayes: O’Banion, Pedrozo, Crookham, Nelson, Kelsey

10:30 A.M. SCHEDULED ITEM

2005-07-26 PLANNING AND COMMUNITY DEVELOPMENT - COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT - PUBLIC HEARING

The time and date previously set for a public hearing to consider comments on the 2003 and 2004 Community Development Block Grant Annual Grantee Performance Report for Community Development Block Grant (CDBG) General Allocation Housing Rehabilitation Programs and Micro-Enterprise Assistance Programs, 2003 Micro-Enterprise Technical Assistance Program and review of the Business RLA Program Income submitted by Planning and Commerce, Aviation and Economic Development Departments.

Planning Director Bill Nicholson reviews the Staff Report and advises the Sign-In Sheet is located at the entrance of the Chambers.

Commerce, Aviation and Economic Development Director John Fowler reviews the Staff Report highlighting on the status of the Micro Enterprise Systems Programs, Revolving Loan Fund and Micro Enterprise Training Grant Programs. He comments on a new initiative being offered by the State that may provide additional grant money to Counties with no match required.

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

Upon motion of Supervisor Nelson, seconded by Supervisor Crookham, duly carried, the Board approves and authorizes the Chairman to sign the necessary documents authorizing submission to the State Department of Housing and Community Development as follows:

CDBG Annual Program Income Report for Report Period July 1, 2004 to June 30, 2005; State CDBG Annual Grantee Performance Report for Period July 1, 2004 to June 30, 2005; State CDBG Grantee Performance Report (02-EDBG-884) for Period July 1, 2004 to June 30, 2005; State CDBG Grantee Performance Report (03-EDBG-918) for Period July 1, 2004 to June 30, 2005; State CDBG Grantee Performance Report (Annual GPR) for Period July 1, 2004 to June 30, 2005; State CDBG Grantee Performance Report (04-STBG-1913) for Period July 1, 2004 to June 30, 2005; State CDBG Grantee Performance Report (03-STBG-1840) for Period July 1, 2004 to June 30, 2005; And CDBG Financial and Accomplishment Report for State CDBG Grantee Performance Report for 03-STBG-1840 and 04-STBG-1913.

Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

10:30 A.M. SCHEDULED ITEM

2005-07-26 PLANNING AND COMMUNITY DEVELOPMENT - PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal of Planning Commission Denial of Minor Subdivision Application No. 05010 submitted by Brian and Rebecca Carter to divide a 40-acre parcel into two 20-acre parcels on property located 1320 feet south of Cottonwood Road and one mile west of Whitworth Road in Gustine.

Planner Kristi Vahl reviews the Staff Report and provides a power point presentation on the project.

The Chairman asks if there is anyone present wishing to speak.

Joe Silva speaks against the project stating he is a neighbor who owns and maintains the road that leads to the property and objects to the road being utilized even more.

Rebecca Carter states she previously sent a letter to the Board regarding this matter, discusses possible future use of the land and the land lock issue stating since the road has been used for at least 40 years, it has a permanent easement that allows access to the road.

The public hearing is closed.

Supervisor Kelsey states the property owner purchased the property as a 40 acre parcel and states concern with the parcelization of agricultural land and the full impacts of 20 acre splits.

Following discussion and upon motion of Supervisor Crookham, seconded by Supervisor Pedrozo, duly carried, the Board denies the Appeal and upholds the determination of the Planning Commission denying the Minor Subdivision Application.
Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

10:30 A.M. SCHEDULED ITEM
2005-07-26 AUDITOR - PUBLIC HEARING

The time and date previously set for a public hearing to consider a Proposed Ordinance setting Auditor-Controller Fees for 2005-06 and 2006-07 Fiscal Year (Amends Title 5, Chapter 5.60 of the County Code) submitted by the Auditor-Controller.

Auditor-Controller Steve Jones briefly reviews the ordinance and states the Special Districts Fees addressed in the Ordinance be removed.

Upon motion of Supervisor Nelson, seconded by Supervisor Kelsey, duly carried, the Board waives further reading of the Proposed Ordinance titled An Ordinance Adopting the Merced County Auditor-Controller's Fee in the 2005-2006 and 2006-2007 Fiscal Year.
Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

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

The public hearing is closed.

Upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board adopts Ordinance No. 1758.
Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

CONSENT ITEM NO. 23
2005-07-26 BOARD OF SUPERVISORS

Upon motion of Supervisor Crookham, seconded by Supervisor Pedrozo, duly carried, the Board authorizes Certificates of Recognition to individuals for selection by the Greater Merced Chamber of Commerce and Leadership Merced as Leadership Merced Graduation Class 20: Karen Adams, Kory Billings, Tom Crawley, David Cribb, Alexis Dias, Jim Gibson, Richard Green, Nancy Havens, Nancy Mackey, Michele McCabe, Karen Philson, Tracy Pisacco, Karen Rodriguez, Joel Sandoval, Jaime Suarez, Sharon Twitty and James Woods.
Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

ACTION ITEM NO. 33

2005-07-26 EXECUTIVE OFFICE

The Clerk announces the Contract between Local Agency Formation Commission (LAFCo) and the County of Merced for daily operational support is before the Board for consideration.

Supervisor Kelsey states Merced County is experiencing growth and using Merced County personnel is not the best use of resources and suggests the County initiate discussions for a different level of support for LAFCo.

Supervisor O'Banion suggests the Board approve the recommendation and issue a notice to LAFCo for consideration of other means for staff support.

Supervisor Nelson advises the City of Atwater has stated concerns with County staff as LAFCo staff and possible conflicts. He states the Planning workload is increasing and this support takes away from the Staff's primary functions.

Supervisor Crookham states concern with the contract term to 2006.

Following a lengthy discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board approves and authorizes the Chairman to sign Contract No. 2005174 with the Local Agency Formation Commission (LAFCo) for daily operational support until December 31, 2005.

Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey

ACTION ITEM NO. 35

2005-07-26 MUNICIPAL ADVISORY COUNCIL - McSwain

The Clerk announces the McSwain Municipal Advisory Council – Establishment and Appointment is before the Board for consideration.

Upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board establishes the McSwain Municipal Advisory Council, authorizes expenditure of \$200.00 from Special Board Project Funds-District Three Account to provide basic office supplies and needs including paper and postage costs and appoints the following with terms to be determined by lot: William Schill, Pamela Schroeder, Katie Favier, Tom Dinwoodie, Jim Farley, John Voris and Mona Adkins, and adopts Resolution No. 2005-140.

Ayes: O'Banion, Pedrozo, Crookham, Nelson, Kelsey