



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, APRIL 04, 2006
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
CHAIRMAN MICHAEL G. NELSON.....DISTRICT 3
DEIDRE F. KELSEY....DISTRICT 4
JERRY O'BANION.....DISTRICT 5
Lydia A. Beiswanger, Chief Clerk

DEMITRIOS O. TATUM
COUNTY EXECUTIVE OFFICER

RUBEN E. CASTILLO
COUNTY COUNSEL

*All supporting documentation is available for public review in the Office of the Clerk of the Board of Supervisors located in the County Administration Building, Third Floor, 2222 "M" Street, Merced, California, 95340
During regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday.
(209) 385-7366*

SCHEDULED ITEMS

8:30 A. M.

CLOSED SESSION - CONFERENCE WITH 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): One Case

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, Director-Commerce, Aviation and Economic Development pursuant to Government Code Section 54956.8 as follows: Castle Property

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Government Code Section 54957: PUBLIC EMPLOYEE PERFORMANCE EVALUATION - County Counsel

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

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

REVIEW BOARD ORDER – SEE PAGE 6

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 (Testimony limited to five minutes per person)

REVIEW BOARD ORDER – SEE PAGE 6

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) DPW-Roads-\$375,000 (052)

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 12)

APPROVED AS RECOMMENDED AYES: ALL

10:30 A. M.

PLANNING - PUBLIC HEARING

Appeal of Planning Commission denial of Minor Subdivision Application No. 05067 submitted by Frank Cuttone. Said application is to divide 92.84 acres of agricultural land into four parcels: Parcel 1=20 acres, Parcel 2=20 acres, Parcel 3=26.42 acres and Parcel 4=26.42 acres on property located on the north side of Highway 140 and 1,350 feet west of Franklin Road in Merced

REVIEW BOARD ORDER – SEE PAGES 6 AND 7

PLANNING - PUBLIC HEARING

Appeal of Planning Commission decision on Major Subdivision Application No. 02018, Vista Del Lago, filed by Community Systems Associates, Inc. on behalf of the Merced Union High School District and the Merced City School District. Said Application submitted by Tim Razzari and Don Stewart, Jr. is to divide a 146.7 acre parcel into 58 one-acre residential lots and a 71-acre remainder parcel on property located on the southeast of the intersection of Golf Road and Old Lake Road, west of Lake Yosemite and the University of California Campus

REVIEW BOARD ORDER – SEE PAGES 7 THROUGH 10

REPORTS/BOARD DIRECTION

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

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 12)

APPROVED AS RECOMMENDED AYES: ALL

Human Services Agency

1. Approve and authorize Chairman to sign Renewal Contract No. 2004118 with Mental Health for Alcohol and Drug Services.
2. Approve and authorize Chairman to sign Renewal Contract No. 2004379 with Hilmar Unified School District for Child Welfare Social Worker.
3. Approve and authorize Chairman to sign Renewal Contract No. 2004345 with Sheriff Department for Social Worker Security and Support.
4. Approve and authorize Chairman to sign Amendment to Contract No. 2004083 with Merced County Office of Education for Family Resource Council services funding.

Mental Health

5. Approve and authorize Chairman to sign Renewal Contract No. 2004156 with Larry Dumford for provision of Board and Care Facilities.
6. Approve and authorize Chairman to sign Renewal Contract No. 2004105 with Health Department for Courier Services to transport incoming and outgoing departmental mail.

Executive Office

7. Act on Claims for Damages received by Long Thao (2006-11) and Jose Martinez (2006-15) as recommended by Risk Management.

Public Works

8. Approve and authorize Chairman to sign Amendment to Contract No. 2004074 with R3 Consulting Group for Financial Analysis of Solid Waste Enterprise.

Planning

9. Approve Budget Transfer for Planning and Community Development in the amount of \$171,000.

Health

10. Approve Budget Transfer for Health in the amount of \$6,000.

Board of Supervisors

11. Set public hearing for May 9, 2006 at 10:00 a.m. to consider an Appeal to Conditional Use Application No. 05031, said Application filed by the Housing Authority of the County of Merced and Appeal filed by San Joaquin Raptor/Wildlife Rescue Center, Protect Our Water, Central Valley Safe Environment Network, the Planada Association and Bryant Owens.

Board Recognition

12. Authorize Certificate of Recognition to Paul Dyer for dedicated service to the Memorial Hospital-Los Banos.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

13. Award Contract No. 2006068 for CNG Shop Addition to the Heavy Equipment Shop at County Center III to J.I. Garcia Construction, Inc. and approve the necessary budget transfer-\$139,000.

APPROVED AS RECOMMENDED **AYES: ALL**

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

14. Authorize Castle Airport Sublease with Future Framing Systems, Inc. for use of Building 1323 for storage and assembly of residential and commercial metal trusses at Castle Airport Aviation and Economic Development.

AUTHORIZED CONTRACT NO. 2006069 AS RECOMMENDED **AYES: ALL**

HUMAN RESOURCES

15. Authorize overhire of the following positions for Limited Term Appointments for a period of no more than six months: one Security Systems Operator, position 95; two Correctional Officer I/II, positions 57 and 120; and two Deputy Sheriff I/II, positions 77 and 8 in BU 22100; one Child Support Specialist I/II, position 92 in BU 20100 and one Support Services Analyst III, Position 9 in BU 40604.

APPROVED AS RECOMMENDED **AYES: ALL**

BOARD APPOINTMENTS

16. Milliken Museum Advisory Committee – Reappointed Dan Nelson and Charles Sawyer until March 10, 2008, June Erreca, Henry Mello and Alveda Parreira until March 10, 2010 and appointed Jessie Stoddard until March 10, 2008 to serve as members.

APPROVED AS RECOMMENDED **AYES: ALL**

17. Underground Utility District Review Committee – Appointed Steve Barrow representing PG&E Advisory to serve as a member at the Pleasure of the Board.

APPROVED AS RECOMMENDED **AYES: ALL**

BOARD INFORMATION & POSSIBLE ACTION

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

18. Dos Palos-Oro Loma Joint Unified School District re: Resolution regarding the increase of school facilities fees as authorized by Government Code Section 66995(b)3 at Board Meeting of February 16, 2006.
19. State Water Resources Control Board re: Board Meeting notice of April 5, 2006 at 10:00 a.m.
20. State Water Resources Control Board re: Statewide General Waste Discharge Requirements for Wastewater Collection System Agencies set for May 3, 2006 at 10:00 a.m.
21. State Water Resources Control Board re: Notice of Opportunity for Public Comment on a proposed amendment to the Water Quality Control Plan for the North Coast Region to

incorporate a total maximum daily load (TMDL) for sediment and temperature in the Scott River Watershed.

22. State Dept. of Water Resources, San Joaquin District re: San Valley Drainage Monitoring Program 2001 District Report dated November, 2005. (On file with Clerk)

ADJOURNED MEETING UNTIL TUESDAY, APRIL 11, 2006 AT 10:00 A.M.

CHAIRMAN

CLERK

BOARD ORDERS – SUMMARY ACTION MINUTES – APRIL 4, 2006

10:00 A.M. SCHEDULED ITEM **2006-04-04 PUBLIC OPPORTUNITY**

Fire Chief Mikel Martin gives an update on the flood situation in the County stating at 2:30 this morning, the Emergency Operations Center was activated in the County and City of Merced. The Atwater Community Center and North Campus High School in Merced have been designated as evacuation centers.

Public Works Director Paul Fillebrown describes some the flood areas within the County.
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

Grant Wilson speaks on the implementation of Proposition 215 and requests the Board take a vote to implement Medical Marijuana Identification Cards. He also requests a copy of the document that governs the Board with regard to the public opportunity to speak.

County Counsel Ruben Castillo advises the Board is governed by the Brown Act which is available on line, at the County Library and Law Library and a hard copy can be obtained through County Counsel's Office for a fee.
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

10:00 A.M. ADDED AGENDA ITEM **2006-04-04 EXECUTIVE OFFICE**

The Clerk states pursuant to Government Code Section 54950 Compliance and subsequent to the posting of the agenda, a need for action arose relative to the damage caused by extensive flooding.

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board finds the need arose subsequent to posting of the agenda regarding the severe flooding and the emergency in Merced County and places the matter on the Agenda for Board consideration.
Ayes: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board adopts Resolution No. 2006-51 declaring a State of Emergency for Merced County as a result of severe flooding damage and adopts Resolution No. 2006-52 requesting the Governor proclaim a State of Emergency and requests a Presidential Declaration.
Ayes: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

10:30 A.M. SCHEDULED ITEM
2006-04-04 PLANNING - 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. 05067 submitted by Frank Cuttone. Said application submitted by Vincent Plagenza to divide 92.84 acres of agricultural land into four parcels: Parcel 1=20 acres, Parcel 2=20 acres, Parcel 3= 26.42 acres and Parcel 4=26.42 acres on property located on the north side of Highway 140 and 1,350 feet west of Franklin Road in Merced.

The Chairman states the Applicant has requested the matter be postponed due to the flooding of their property.

Supervisor Kelsey moves, seconded by Supervisor Pedrozo, the Board continue the Public Hearing until April 11, 2006.

Development Services Director Robert Lewis states the public hearing will need to be readvertised and recommends the Board continue the public hearing to May 2, 2006 at 10:30 a.m.

Supervisor Kelsey moves, seconded by Supervisor Pedrozo, to amend the motion to continue the Public Hearing until May 2, 2006, at 10:00 a.m.

Appellant Frank Cuttone states he would like the matter to proceed today since the Applicants' opinions are already part of the record.

Following discussion, the Chairman calls for a vote on the Amended Motion. Motion carries.

Ayes: Nelson, Pedrozo, Crookham, Kelsey

Noes: O'Banion

10:30 A.M. SCHEDULED ITEM
2006-04-04 PLANNING - PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal of Planning Commission decision on Major Subdivision Application No. 02018, Vista Del Lago, filed by Community Systems Associates, Inc. on behalf of the Merced Union High School District and the Merced City School District. Said application submitted by Tim Razzari and Don Stewart, Jr. to divide a 146.7 acre parcel into 58 one-acre residential lots and a 71-acre remainder parcel on project located southeast of the intersection of Golf Road and Old Lake Road, west of Lake Yosemite and the University of California Campus in Merced.

Assistant Planning Director Bill Nicholson provides a brief background and reviews the power point presentation.

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

Marshall Krupp of Community Systems Associates, representing the Merced Union High School District and Merced City School District, states the County did not respond to Merced City

School District comments in the environmental process. He further states the Planning Commission did not receive correspondence in advance and feels the Commissioners did not have an opportunity to review prior to the public hearing. He requests the resolution adopted by the Planning Commission be rescinded since the resolution states the Commission considered all correspondence. He advises there are a variety of issues not addressed in the Final Environmental Impact Report (EIR) and that many issues refer back to the original EIR prepared for the General Plan when it was originally adopted. That analysis did not contemplate current conditions that have occurred as the result of unprecedented growth. Mr. Krupp speaks to the specifics of school issues, submits a document for the record and concludes that the EIR is inadequate.

Mr. Krupp further states two of the Planning Commissioners are members of LAFCo and according to LAFCo, it is not LAFCo's jurisdiction to deal with schools but he feels that in this case, the County is the local jurisdiction and should consider such matters.

Garth Pecchinino of Fremming, Parson and Pecchenino, representing property owners, states he feels the County staff has been thorough. He also states SB 50 covers school issues which was stated by County Counsel during the Planning Commission meeting and requests the Board deny the Appeal.

Robert H. Fore, Ph.D, Superintendent of the Merced Union High School District, refers to a conference call that took place with representatives of the Merced Union High School District, Merced City School District, and the property owners in which a possible mitigation agreement was discussed with no agreement reached.

The Chairman closes the public hearing.

The Board discusses fees imposed by the County and school impact fees.

Applicant Mike Salvadori appears and states the applicants are not builders. They will reach agreements with contractors and the applicants agree that the future contractors will pay the prevailing rate at that point and time.

Following further discussion regarding fees, County Counsel Ruben Castillo advises in accordance with SB 50 local governments are pre-empted from imposing conditions on school impact fees.

Supervisor Kelsey states concern with school fee issues and suggests voluntary agreements can be made by developers.

Supervisor O'Banion states school impact fees are not a LAFCo issue, it is an issue with the local jurisdiction. The local jurisdiction has its hands tied regarding rates but that doesn't mean developers cannot meet with school districts to discuss the matter and reach some resolution.

Mr. Krupp requests the Board continue the matter for two weeks so that an independent third party can listen to the school districts and the applicants to determine what school fees should apply to this project.

Mr. Castillo states the parties can meet with an independent third party any time and that is no reason to delay this appeal.

Following discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried, based on Findings the Board certifies the Final Environmental Impact Report for Vista Del Lago Major Subdivision is adequate and has been completed in compliance with CEQA and the State CEQA Guidelines, denies the Appeal and upholds the determination of the Planning Commission approving Major Subdivision Application No. 02018 subject to the following conditions:

1. The Final Map shall be recorded within two years of the Planning Commission approval date.
2. The project shall comply with all applicable regulations administered by the County Fire, Health, Planning and Public Works Departments.
3. All mitigation measures identified in the Environmental Impact Report are adopted and incorporated by reference as project conditions.
4. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County code, which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and underground or relocate utilities and irrigation facilities.
5. Provide a letter from MID accepting storm drainage water from this proposed development into the "Tower Lateral" prior to recording the Final Map.
6. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all new streets shall have been rough graded and compacted, prior to the issuance of any building permits. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed.
7. The developer shall provide centerline striping for those new roads which intersect the existing peripheral streets. This striping shall extend for a minimum of 200 feet from the intersection, or continue to the next intersection, as deemed appropriate.
8. The developer shall acquire, and shall dedicate to the County, additional right-of-way at the intersection of each proposed access onto Golf Road and Old Lake Road, sufficient to provide a 35 foot fillet radius for each turn.
9. Developer/Applicant is advised that he/she may be obligated to comply with Federal Regulations for storm water runoff issued by the U.S. EPA on November 16, 1990 (40 Code of Federal Regulations Parts 122, 123 and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 341-5537, e-mail: stormwater@swrcb.ca.gov, or visit their website at www.swrcb.ca.gov.
10. The existing barbed wire fence along the eastern property boundary (abutting Yosemite Dam) shall be replaced, with a chain link fence or block wall of at least six feet in height, for health and safety purposes.
11. No subdivision roads shall be constructed within Merced Irrigation District (MID) fee strips, except perpendicular crossings over canals, under license agreements with the MID.
12. Any crossings over or under MID facilities will require the applicable agreements or easements between MID and the property owner.
13. A signature block for MID shall be placed on the development's Improvement Plans.
14. The developer shall meet and confer with representatives of the MID regarding MID easements that impact the subject property and methods of mitigating their impact on the project.

15. The developer shall perform soils analysis and percolation tests for each proposed lot. The tests shall be conducted at each proposed septic system location and the results submitted to the Division of Environmental Health prior to recording the Final Map.
16. The use of specially designed onsite sewage treatment systems, which the property owner must operate/maintain, is required. These systems shall release an effluent concentration of less than 10 mg/l of total nitrogen.
17. A Zone of Benefit shall be formed to monitor the operation and maintenance of the new onsite sewage treatment systems.
18. Prior to the commencement of construction, the applicant shall submit a Dust Control Plan to the San Joaquin Valley Air Pollution Control District, Information on this requirement, together with information on any other rules or regulations that may apply to this proposal, can be obtained from the District's Small Business Assistance Office as (209) 557-6446.
19. The applicant shall pay the Parkland Dedication and/or Improvement fees consistent with Ordinance No. 1090 prior to recording the Final Map.
20. The applicant shall make all other site improvements and comply with the lot development standards provided in the Merced County Zoning Code.
21. For the purpose of mitigation and/or condition monitoring, a fee in the amount of \$490 shall be required. This fee shall be paid prior to recordation of the Final Map.

and adopts Resolution No. 2006-53.

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