



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, APRIL 11, 2006
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

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

8:00 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) John Fowler, Director-Commerce, Aviation and Economic Development pursuant to Government Code 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 Government Code Section 54956.9(b): Five Cases

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 of Section

54956.9(a): Marcus Aue & Jason Haugen v. County of Merced, Merced Superior Court Case #148183

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Government Code 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; Deputy Sheriff Association, Unit 10 and Non-Safety Corrections, Unit 12

REVIEW BOARD ORDER – SEE PAGES 10 AND 11

GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)

REVIEW BOARD ORDER – SEE PAGES 10 THRU 12

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 11

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Fire-\$20,000

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 25)

APPROVED AS RECOMMENDED EXCEPT ITEM NO. 6 WHICH WAS REMOVED FROM THE AGENDA AYES: ALL

REPORTS/BOARD DIRECTION

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

CONSENT CALENDAR (Items #1 - 25)

APPROVED AS RECOMMENDED EXCEPT ITEM NO. 6 AYES: 1, 3, 4, 5 NOT PRESENT: 2

Public Works

1. Adopt Resolution to establish a 25 MPH speed zone on Sutter Street in Planada between Santa Fe Drive and Stanford Avenue and authorize speed limit signs be erected.

ADOPTED RESOLUTION NO. 2006-54

2. Set public hearing for May 2, 2006 at 10:00 a.m. to consider Mitigated Negative Declaration for the Buhach/Ashby Road Intersections Project.

Mental Health

3. Approve and authorize Chairman to sign Renewal Contract No. 2004239 with Central Valley Regional Center (CVRC) for services to disabled and seriously emotionally disturbed.
4. Approve and authorize Chairman to sign Renewal Contract No. 2004015 with Merced Behavioral Health Center for Institutes for Mental Disease services.
5. Proclaim the month of May, 2006 as "Drug Court Month" in Merced County.

Human Services Agency

6. Approve and authorize Chairman to sign Renewal Contract No. 2004396 with Challenged Family Resource Center for services to Adoptive/Foster Parents.

NO ACTION TAKEN – PULLED FROM THE AGENDA

7. Approve and authorize Chairman to sign Renewal Interdepartmental Contract No. 2004117 with Mental Health for Mental Health Services.
8. Approve and authorize Chairman to sign Renewal Contract No. 2004279 with Merced Lao Community, Inc. for Home Visitor Services through Promoting Safe and Stable Families Program.
9. Approve and authorize Chairman to sign Renewal Contract No. 2004278 with Merced Lao Community, Inc. for Home Visitor Services through Child Abuse Prevention Intervention and Treatment Program (CAPIT).
10. Approve and authorize Chairman to sign Renewal Contract No. 2003090 with Mental Health for Alcohol and Drug Counseling Services.
11. Approve and authorize Chairman to sign Amendment to Contract No. 2004028 with California Dept. of Aging for Senior Community Services Employment Program on behalf of the Area Agency on Aging Program and approve budget transfer in the amount of \$227.00.
12. Approve and authorize Chairman to sign Amendment to Contract No. 2004189 with Community Action Board for Congregate Meals Program increase through Area Agency on Aging.
13. Approve and authorize Chairman to sign Amendment to Contract No. 2004188 with Community Action Board for Home-Delivered Meals Program increase through Area Agency on Aging.

Child Support Services

14. Approve and authorize Chairman to sign Renewal Contract No. 2003226 with Calif. Dept. of Child Support Services for Plan of Cooperation.

Planning

15. Approve and authorize Chairman to sign Amendment to Contract No. 2004306 with Self Help Enterprises for administration of the 2003 HOME Grant to providing funding for First Time Homebuyers and Housing Rehabilitation Activities.
16. Approve and authorize Chairman to sign Amendment to Contract No. 2005113 with Self Help Enterprises for administration of the 2004 HOME Grant to providing funding for first time homebuyers and housing rehabilitation activities.

Sheriff

- 17. Approve and authorize Chairman to sign Amendment to Contract No. 2003157 with Hilmar School District for canine drug patrol services.
- 18. Approve and authorize Chairman to sign Amendment to Contract No. 2004232 with Merced County Jail Ministry for Ministry Services.

Treasurer

- 19. Grant the County Treasurer relief of shortages in the amount of \$100 and authorize replenishment in the amount of \$100 for one counterfeit bill.

Board of Supervisors

- 20. Approve Minutes of December 13, 20, 2005 and January 10, 24 and February 14 and 28, 2006 as submitted.

Executive Office

- 21. Approve Travel Request for Human Services Agency as recommended by Executive Office.

Board Recognition

- 22. Authorize Certificate of Recognition to John Carlisle for dedicated service to the Merced Multi-Agency Narcotic Task Force.
- 23. Authorize Certificate of Recognition to Rosa Ruiz for dedicated service to Child Support Services.
- 24. Authorize Certificates of Recognition to numerous 4-H Volunteers for commitment and dedicated years of service.

REVIEW BOARD ORDER - SEE PAGES 12 AND 13

- 25. Authorize Certificate of Recognition to Mabel Celano in recognition and appreciation of 25+ years to the City of Los Banos and the County of Merced.

REGULAR CALENDAR

BOARD ACTION

CHILD SUPPORT SERVICES

- 26. Contract No. 2006076 with State of Arkansas for participation in Medical Support Services Consortium and approve budget transfer in the amount of \$100,000. (4/5 Vote Required)
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
- 27. Contract No. 2006077 with Informatix, Inc. for imaging preparation services of child support case files and approve budget transfer in the amount of \$300,000. (4/5 Vote Required)
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

- 28. Contract No. 2006078 with Alliance Small Business Development Center to provide business assistance services to small businesses and potential entrepreneurs.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

29. Contract No. 2006079 with Big Creek Lumber, Inc. for sublease of 7.45 acres of land along Space Port Entry and Santa Fe Drive at Castle Airport Aviation and Development Center to expand their business and construction of new facility for operations in the Merced and central valley area.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

HUMAN SERVICES AGENCY

30. Contract with California Dept. of Social Services for the Refugee Employment and Social Services Program, Three Year Plan for Federal Fiscal Year 2005, 2006, 2007 and adopt Resolution.

AUTHORIZED CONTRACT NO. 2006139 AND ADOPTED RESOLUTION NO. 2006-55 AYES: 1, 3, 4, 5 NOT PRESENT: 2

PROBATION

31. Authorize Probation to identify available space and to negotiate a lease in order to house the Adult Division, Merced with results of negotiations and total costs associated with potential office space to be submitted to the Board for approval.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

32. Adopt Resolution approving the Juvenile Justice Crime Prevention Act Application for Continuation Funding for FY 2006/07 and authorize submission to the Corrections Standards Authority for final approval.

ADOPTED RESOLUTION NO. 2006-56 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

33. Authorize preparation and release of Request for Proposal for Instant Result Drug Tests, authorize selection and award by Purchase Order of the most responsive provider to be returned to the Board.

REVIEW BOARD ORDER – SEE PAGE 13

MENTAL HEALTH

34. Resolution approving the Substance Abuse and Crime Prevention Act of 2000 Fiscal Year 2006-2007 County Plan.

ADOPTED RESOLUTION NO. 2006-57 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

SHERIFF

35. Accept Grant for the 2006 Domestic Cannabis Eradication/Suppression Program in the amount of \$25,000 and authorize Contract with U.S. Dept. of Justice, Drug Enforcement Administration (DEA), authorize the \$25,000 funding to be placed in the Sheriff Trust and draw down the funding periodically to offset Overtime costs (\$9,000), Training (\$9,000), Operation Expenses (\$4,000) and Operational Technology (Surveillance Equipment) (\$3000) as occurs understanding the equipment will be purchased through the County purchasing system.

AUTHORIZED CONTRACT NO. 2006075 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

36. Authorize purchase of Trunk System Update Primary and Backup from Mobile Communications, Inc. as a safety issue and approve budget transfer in the amount of \$12,000. (4/5 Vote Required)

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

HEALTH

37. Contract No. 2006080 with First 5 Merced County to accept Mini-Grant Award in the amount of \$20,000 to purchase educational materials, car seats, scholarships and training for the "Safe Kids - Healthy Community" Program and approve budget transfer in the amount of \$20,000. (4/5 Vote Required)
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
38. Contract No. 2006081 with the State Dept. of Health Services for Disaster Planning Assistance and purchase of disaster-related equipment and supplies and approve budget transfer in the amount of \$158,284. (4/5 Required)
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
39. Contract No. 2006082 with Mater Misericordiae Hospital, dba Mercy Medical Center Merced for Disaster Planning Assistance and the development of medical surge capacity plans.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
40. Contract No. 2006083 with Memorial Hospital Los Banos for Disaster Planning Assistance and the development of medical surge capacity plans.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
41. Resolution approving the Addendum to the Final Environmental Impact Report (EIR) for the Highway 59 Landfill Expansion Project.
ADOPTED RESOLUTION NO. 2006-58 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

PUBLIC WORKS

42. Contract No. 2006073 with Granite Construction for excavation of the soil required for the Highway 59 Landfill Phase 6 Expansion Project as well as for any other projects that may be upcoming through December 2007.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
43. Contract with PG&E for Consent to Common Use Agreement for a public roadway within Santa Nella Village, Phase 4 and adopt Resolution.
AUTHORIZED CONTRACT NO. 2006086 AND ADOPTED RESOLUTION NO. 2006-59 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
44. Contract with PG&E, Chevron Pipeline Company and Equilon Enterprises for a public linear park within Santa Nella Village, Phase 4 and adopt Resolution.
AUTHORIZED CONTRACT NO. 2006087 (Chevron Pipeline), 2006088 (Equilon Enterprises, LLC) and 2006095 (PG&E) AND ADOPTED RESOLUTION NO. 2006-60 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
45. Cancel PG&E Contract No. 2003104 approved on June 30, 2005 and authorize new Contract for electrical services at the Highway 59 Landfill with the credit balance to be applied to the new contract.
AUTHORIZED CONTRACT NO. 2006140 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
46. Contract No. 2006074 with Vanguard Construction for the Curb and Gutter on Sutter and Chapman Streets in Planada and Le Grand.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
47. Authorize circulation of RFP for commingled recyclables transfer and processing services for Solid Waste Enterprise operations with Solid Waste Policy Board recommendations to

be returned to the Board.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

PLANNING

48. Contract No. 2006070 with Jones & Stokes for Environmental Review and Permit Processing application services.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

49. Contract No. 2006071 with Michael Brandman Associates for the preparation of Environmental Review and Permit Processing application services.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

50. Resolution authorizing designated Staff to sign HOME Program Income, loans and grant documents required by the State Department of Housing and Community Development for participation in the 2002 (02-HOME-0619) 2003 (03-HOME-0658) and 2004 (04-HOME-0742) HOME Program Grants as follows: Development Services Director, Assistant Development Services Director and Senior Planner.

ADOPTED RESOLUTION NO. 2006-61 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

51. Resolution authorizing designated Staff to sign CDBG Program Income, loans and grant documents required by the State Department of Housing and Community Development for participation in the 2004 (04-STGB-1913) and 2005 (05-STGB-1409) CDBG Program Grants as follows: Development Services Director, Assistant Development Services Director and Senior Planner.

ADOPTED RESOLUTION NO. 2006-62 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

52. Authorize Contract with Mintier and Associates for General Plan Update and Related EIR in connection with RFP #6060.

REVIEW BOARD ORDER – SEE PAGES 13 AND 14

53. General Plan Amendment Policy and Procedures during the General Plan Update Process - review options presented and provide direction on how property owner sponsored General Plan Amendment applications should be treated during the General Plan update process.

REVIEW BOARD ORDER – SEE PAGES 14 THROUGH 17

AUDITOR

54. Approve Line of Credit in the amount of \$150,000 to Merced County Spring Fair to operate the Fair and Junior Livestock Auction, advances will be reduced by outstanding amounts due; loan will be for period of April 15 through September 30, 2006 for the operation of the Fair and for the period of October 1, 2006 through April 30, 2007 the line of credit will be reduced to \$40,000 and both loans will bear an interest rate equal to the Treasury rate of approximately 3.5% on the unpaid balance per annum.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

55. Amend Contract No. 2003141 with Election Systems & Software Inc. for Election Hardware and Software System M100 and AutoMARK Election equipment, approve the Trade-In Allowance and approve necessary budget transfer-\$440,000. (4/5 Vote Required)

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

56. Resolution for a Non-Revolving Line of Credit for the 2005-2006 Merced County Spring Fair by County Bank-Los Banos to provide payment to sellers of the Jr. Livestock Auction, funds to be repaid as payments are received from buyers; loan will be for a maximum of \$550,000,

will mature 9/8/06 and bear an interest rate set at prime which is currently 7.75% and have a loan cost of \$350 and authorize the Auditor to sign the necessary documents and issue a change fund in the amount of \$8,000 for operation of the fair.

**ADOPTED RESOLUTION NO. 2006-63 AS RECOMMENDED AYES: 1, 3, 4, 5
NOT PRESENT: 2**

57. Approve the consolidation of Weaver Union School District Bond Measure B with the Direct Primary Election on June 6, 2006.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

58. Under the California Disaster Assistance Program appoint Mikel L. Martin, Director and Tom Wells, Deputy Director-Administration of Emergency services in order to receive funding and adopt Resolution.

**ADOPTED RESOLUTION NO. 2006-64 AS RECOMMENDED AYES: 1, 3, 4, 5
NOT PRESENT: 2**

BOARD OF SUPERVISORS

59. Authorize expenditure of \$1,670 from Special Board Project Funds-District Three to Mark Jantz Electric to purchase light pole with lights and pedestal for Courthouse Park Veterans Memorial.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

60. Authorize expenditure of \$450 from Special Board Project Funds-District One to Sheriff Explorers to benefit the Planada Community Day Event and approve the necessary budget transfer.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

EXECUTIVE OFFICE

61. Authorize the \$1,500 appropriation in Advertising Budget Unit 18000, Account 32800 be changed to reflect Delhi Boosters instead of the Delhi Chamber.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

62. Authorize Letter of Support for Senate Bill 151 (Soto), Illegal Dumping and penalties associated with illegal dumping and authorize distribution to appropriate legislative representatives.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

63. Authorize Letter of Opposition for Assembly Bill 3050 (Chu), property damage or personal injury caused by flood control or levee failure and authorize distribution to the appropriate legislative representatives.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

64. Authorize Letter of Support for Assembly Bill 2627 (Koretz), Conflict of Interest Codes and authorize distribution to appropriate legislative representatives.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

COUNSEL

65. Contract No. 2006084 with Remy, Thomas, Moose and Manley, LLP for legal services.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

APPOINTMENTS

66. Area Agency on Aging Advisory Council - Appointments and Reappointments.
REVIEW BOARD ORDER – SEE PAGE 17
67. Eagle Field Water District – Reappointed Barbara Preimsberg, Marguerite Bennett and Janemarie Bennett-Monroe until December 7, 2009.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
68. Le Grand Municipal Advisory Council – Appointed Tonya Moreno until December 7, 2009.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
69. Country Club Water District – Reappointed Mark Grubb and Dan Larson until December 7, 2009, John Salvador until December 7, 2007 and appointed Steve Shamgochian and Michael Ostrander until December 7, 2007.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
70. Planada Municipal Advisory Council – Appointed Kim Rogina until March 31, 2007.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2
71. Housing Authority of the County of Merced – Appointed Robert Macha until February 18, 2010.
REVIEW BOARD ORDER – SEE PAGES 17 AND 18
72. Mosquito Abatement District – Consideration of Appointment.
REVIEW BOARD ORDER – SEE PAGE 18

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: 1, 3, 4, 5 NOT PRESENT: 2

73. Sheriff re: Peace Officer - Memorial Recognition set for May 5, 2006.
74. City of Merced re: Stakeholder Meetings for City of Merced General Plan Update Notice.
75. U.S. Senator Barbara Boxer re: Community Development Block Grant Programs.
76. California Regional Water Quality Control Board - Central Valley Region re: Notice of California Environmental Quality Act (CEQA) Scoping Meeting and Public Workshop on the Development of Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin) Plan to Control the Discharge of Diazinon within the Sacramento and Feather Rivers.
77. State Office of the Director-Emergency Services re: National Incident Management System - Update. (On file with Clerk)
78. Local Government Commission re: Creation of a set of principles appropriate, after working with leading experts in water at the federal, state and local levels, for inclusion in a general plan. (On file with Clerk)
79. State Water Resources Control Board re: Notice of Public Workshop - Presentation by the San Joaquin River Group Authority regarding modifications to the CALSIM II Model for the Application of the Model on the San Joaquin River set for April 24, 2006 at 1:00 p.m. in Sacramento.

ADOPTED RESOLUTIONS IN MEMORY OF ZULEMA “SUE” MOOREHEAD, TERRY VITATO, CHARLES BRADLEY AND RALPH GOMEZ AND ADJOURNED THE MEETING UNTIL TUESDAY, MAY 2, 2006 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – APRIL 11, 2006

8:00 A.M. ADDED AGENDA ITEM

2006-04-11 SCHEDULED ITEMS – CLOSED SESSION

The Clerk advises subsequent to the posting of the Agenda for the Board of Supervisors Meeting of April 11, 2006, the need for Closed Session arose for Existing Litigation. The item is before the Board for consideration.

Upon motion of Supervisor Pedrozo, seconded by Supervisor O'Banion, duly carried, the Board finds the need arose subsequent to posting of the April 11, 2006 Agenda and places the matter on the Agenda to consider a Closed Session – Conference with Legal Counsel - Existing Litigation: Wathan v. Merced County Case No. 1:05-CV-01609-AWI-DLB.

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

8:00 A.M. SCHEDULED ITEM

2006-04-11 CLOSED SESSION

The Clerk announces the following items are scheduled for Closed Session for consideration:

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 - 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): Five Cases

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 of Section 54956.9(a): Marcus Aue & Jason Haugen v. County of Merced, Merced Superior Court Case #148183

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Government Code 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; Deputy Sheriff Association, Unit 10 and Non-Safety Corrections, Unit 12

The Board recesses into Closed Session at 8:00 a.m. with all members present and reconvenes at 10:00 a.m. with all members present. The Chairman states Staff was given direction and action was taken to authorize Counsel to file an Amicus Brief in connection with the

following two court cases challenging the legality of Proposition 215: Case No. GIC861051, County of San Bernardino and Gary Penrod as Sheriff of Co. San Bernardino vs. the State of California, Sandra Shewry as Director of California Department of Health Services and Case No. GIC860665, County of San Diego vs. San Diego Normal, State of California, Sandra Shewry as Director of California Department of Health Services.

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

10:00 A.M. SCHEDULED ITEM

2006-04-11 PUBLIC OPPORTUNITY

American Red Cross Merced-Mariposa Chapter Public Affairs Officer Bob Bernard and American Red Cross Executive Director Susan King review resources provided to flood victims in Merced County.

Salvation Army Major Linden Berquist provides a service update to flood victims in Merced County.

Office of Emergency Services (OES) Deputy Director Tom Wells provides a brief update on the current flood situation.

Grant Wilson speaks regarding Proposition 215 requesting the Board vote on the implementation of medical marijuana cards.

Al Sousa, Winton Municipal Advisory Council (M.A.C.) member, speaks against big rigs in residential areas, submits information from the Sheriff's Office and M.A.C. and requests big rigs be prohibited from parking in residential areas.

Supervisor Kelsey requests staff prepare a written response to Mr. Sousa's request within 30 days to be shared with the Winton Municipal Advisory Council.

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

10:00 A.M. ADDED AGENDA ITEM

2006-04-11 SCHEDULED ITEM – PRESENTATION

The Clerk advises subsequent to the posting of the Agenda for the Board of Supervisors Meeting of April 11, 2006, the need for action arose regarding a donation from Pacific Gas and Electric Company for flood assistance.

Upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried, the Board finds the need to take action arose subsequent to posting of the April 11, 2006 Agenda and places the item on the agenda for consideration.

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

Pacific Gas and Electric Company Governmental Relations Officer Mark Hendrickson presents a donation check in the amount of \$25,000 to Merced County in order to procure sand bags and to help aid displaced families that have been affected by the flooding.

Upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried, the Board accepts the \$25,000 donation from Pacific Gas & Electric, authorizes funds from the donation to be used for assistance relating directly to the Merced County flood victims and approves the necessary budget transfer. (4/5 Vote Required)

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

10:00 A.M. ADDED AGENDA ITEM

2006-04-11 EXECUTIVE OFFICE

The Clerk advises subsequent to the posting of the Agenda for the Board of Supervisors Meeting of April 11, 2006, the need for action arose regarding an update on the State of Emergency for Merced County.

Upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried, the Board finds the need to take action arose subsequent to posting of the April 11, 2006 Agenda and places the item on the agenda for consideration.

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

Following discussion and upon motion of O'Banion, seconded by Supervisor Crookham, duly carried, the Board finds that as a result of severe weather conditions and flooding in Merced County, a State of Emergency as defined in Government Code Section 54954.2(b)(1) continues to exist under Resolution 2006-52 as proclaimed and concurred by the Director of Emergency Services for Merced County.

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

CONSENT ITEM NO. 24

2006-04-11 BOARD OF SUPERVISORS

Upon motion of Supervisor Pedrozo, seconded by Supervisor O'Banion, duly carried, the Board authorizes the Tak Date Community Award to Raymond and Maria Giampaoli, the Rollo Spina Leader Award to Phyllis Boyle and the Silver Clover Award to Trisha Nelson for years of commitment and service to 4-H service and authorizes the Certificates of Appreciation to the following 4-H Volunteers for their dedication to the 4-H Program:

Silver Clover, 5 Years of Service: Ballico-Cressey-Deanna Abraham and Chad Olson; Countywide-Mark Mahacek; Hilmar Colony-Debbie Mendes; Lancers-Joanna Conrado, Vicki Fagundes, Melvin Ladousier and Bill Ray; Livingston-Lori Woods; Los Banos-Robert Jones and Hans Younce; McSwain-Susan Avelar, Laurie Bazan, Wendy Murphy, John Voris, John White; Livingston-Lori Woods; Our Lady of Fatima-Mary Harris and Linda Silva; St. Anthony's-Lisa Battisti; Westside-Becky Smith.

Silver Clover, 10 Years of Service: Lancers-Ken Tunnel; Hilmar Colony-Darlene Piersma; Our Lady of Fatima-John Romero and St. Anthony's-Charles Huff.

Pearl Clover, 15 Years of Service: Countywide-Kenneth Zacharias and McSwain-Alvin Schroeder.

Diamond Clover, 20 Years of Service: Countywide-Jose Campos and Lancers-Lynnie Alberti-Williams.

Emerald Clover, 25 Years of Service: Countywide-Carole Dietz.

Ruby Clover, 30 Years of Service: Countywide-Bobbie Hansen and Kathryn Rinkenberger.

Ayes: Nelson, Pedrozo, Kelsey, O'Banion

Not Present: Crookham

ACTION ITEM NO. 33

2006-04-11 PROBATION

The Clerk announces the Request for Proposal for Instant Result Drug Tests from Probation is before the Board for consideration.

Upon motion of Supervisor Kelsey, seconded by Supervisor O'Banion, duly carried, the Board authorizes preparation and release of a Request for Proposal for Instant Result Drug Tests, authorizes selection of the most responsive bidder to perform such services to be returned to the Board for final award and issuance of Purchase Order.

Ayes: Nelson, Pedrozo, Kelsey, O'Banion

Not Present: Crookham

ACTION ITEM NO. 52

2006-04-11 PLANNING

The Clerk announces the Contract with Mintier and Associates for General Plan Update and Related EIR in connection with RFP No. 6060 is before the Board for consideration.

Assistant Development Services Director Bill Nicholson reviews the power point presentation outlining the Project Schedule and Community Outreach for the General Plan Update.

Supervisor Kelsey inquires about the community outreach strategy.

Larry Mintier, Mintier and Associates, reviews Contract-Exhibit B, Process Schedule stating focus groups will begin forming in addition to organizing advisory committee(s) to prepare and distribute newsletters, set up a website and hold stakeholder meetings.

Supervisor Kelsey states letters have been received from interested parties over the past several years on the General Plan Update and she requests these people be advised of the Update process.

Following further discussion, Mr. Nicholson states municipal advisory councils are a forum for community outreach, stakeholder and/or focus groups.

Frank Borgess, representing Mike Gallo on an existing application in Merced County, questions how this proposed process will affect the application already in progress.

Bryant Owens states concern with municipal advisory councils and possible conflicts of interest with Planada Municipal Advisory Council and the Planada Community Service District since both have members in common and is concerned about violation of the Brown Act.

Supervisor O'Banion states the municipal advisory councils have no conflicts because they only make recommendations.

Following discussion and upon motion of Supervisor Crookham, seconded by Supervisor O'Banion, duly carried, the Board approves and authorizes the Chairman to sign Contract No. 2006072 with Mintier and Associates for General Plan Update and Related Environmental Impact Report in connection with Request for Proposal No. 6060.

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

ACTION ITEM NO. 53
2006-04-11 PLANNING

The Clerk announces the General Plan Amendment Policy and Procedures during the General Plan Update Process is before the Board for consideration.

Development Services Director Robert Lewis reviews the power point presentation and states staff has identified four options for the Board to consider during the General Plan Update process:

Option 1-Allow All

Allow any property owner to submit a General Plan Amendment whether or not it involves a new or updated Community Plan. Applicants proceed at their own risk and indemnify the County.

Option 2-Limit by Date

Consider holding in abeyance as of April 11, 2006 any new General Plan Amendment application that requires preparation or revision to a Community Plan (generally those applications which require approval of a Guidance Package for processing).

Option 3A-Ag Land

Consider processing applications for Community Plans and Community Plan updates only where the area is located on non-productive farmland (soil quality is rated lower than Prime, Farmlands of Statewide Importance and Unique Farmland as identified on the State Important Farmlands Map of the Department of Conservation).

Option 3B-Ag Land

During the time period prior to the completion and final adoption of the updated County General Plan and effective at the signing of a resolution, applications intended as preliminary steps to change the general plan designation from agricultural to non-agricultural or urban uses shall NOT be accepted unless: It can be demonstrated that the application will not result in a "leap-frog" development pattern, will not result in a significant change to surrounding existing land uses, will utilize, if granted the existing services of a full service municipal water and sewer treatment facility, and as such could be considered an infill project, causing minimal environmental impacts.

Option 4-Moratorium

Consider holding in abeyance any and all General Plan Amendment applications by adopting a resolution to hold applications until the General Plan Update is completed and approved.

Supervisor O'Banion asks if staff has a recommendation.

Mr. Lewis states staff is recommending the Board select Option One.

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

Bryant Owens questions if the Board received a faxed letter from Marsha Burch. He further states he unsuccessfully attempted to obtain a copy of the staff report and submits and reads correspondence submitted by San Joaquin Raptor Rescue Center and Protect Our Water and the Coalition. He plays a tape recording of a conversation regarding assistance in a development project in the Livingston area and objects to developers contacting Board Members seeking inside information. He objects to piecemeal development and violations of the Brown Act.

For the record, the Chairman states the Board Members received an e-mail from Ms. Burch.

Robbie Ann Love, representing the Stevinson Citizens' Group, speaks in favor of the Moratorium Option.

Merced County Chamber of Commerce CEO Julius Pekar, representing President Jeff Pennington, submits and reads a statement from Mr. Pennington opposing the Moratorium Option.

Rochelle Koch states the League of Women Voters met and discussed growth and land use planning and many concerns were raised during this forum.

Mary Furey submits and reads a statement and speaks in favor of a moratorium.

John Seesholtz states he owns farms in Merced County and requests the Board continue efforts to develop plans for the benefit for the future of Merced County as a whole and the San Joaquin Valley.

Cindy Lashbrook representing the Community Alliance with Family Farmers, farmer and licensed state contractor, submits documents, reads a statement into the record and speaks in favor of a Moratorium.

At 11:15 a.m., Supervisor Crookham states it is necessary that she leave the meeting and regrets she will not be able to vote on this issue however she is in favor of Option 1.

Glenn Anderson, Hilmar, states concern about the dwindling resources in Merced County and submits a document from Rudy Platzek in support of local agriculture and keeping it intact.

Kathleen Rousch, Stevinson, encourages the Board to hold meetings for the public interest in this matter and states support for a moratorium. Ms. Rousch expresses interest in being involved in the General Plan Update process.

Frank Borgess, representing Mike Gallo, speaks against a moratorium and states he could operate under Option 1 but prefers Option 2.

Glenn Davis, Atwater-McSwain area representing Concerned Citizens for Sensible Growth, recommends the Board select one of the options that would benefit all citizens in the community and not a select few.

Merced County Farm Bureau Executive Director Diana Westmoreland Pedrozo, representing the Board of Directors, refers to an e-mail sent to the Board Members and submits and reads a statement into the record advising the Farm Bureau supports a moratorium but if the Board does not vote for a moratorium, the Farm Bureau requests applications not be accepted for new towns or expansions of unincorporated communities that would convert productive agriculture land that is not already in their sphere until the General Plan is updated.

Les McCabe suggests setting up committees in the different areas of the County and speaks in favor of protecting agriculture land for the growth of food products. He supports a moratorium but would prefer that projects already in progress be completed.

Kevin Stone, Building Industry Association, speaks in favor of Option 1 and states concern with the impact on job creation and retention and fiscal impacts should there be a moratorium.

Supervisor Kelsey states she is not in favor of a moratorium but favors Option 3B with added language that would allow current applications and applications which provide a timely, clear economic benefit to the County to proceed.

Supervisor Pedrozo states he would like staff to develop a formal review process with a point system or narrative system as part of the General Plan Update and recommends Tulare's County system be reviewed.

Following discussion, Supervisor O'Banion moves, seconded by Supervisor Nelson, the Board approve Option 1 allowing any property owner to submit a General Plan Amendment whether or not it involves a new or updated Community Plan with applicants to proceed at their own risk and indemnify the County.

Supervisor Kelsey states she was not aware there would be a staff recommendation and she cannot support the motion on the table and proposes an Amendment to approve Option 3B with additional language allowing for applications previously accepted for processing to continue and are eligible for amendment as needed or otherwise shall proceed unimpeded during the General Plan Update process effective at the time this policy is adopted.

Supervisor O'Banion states the Board needs to go forward with the General Plan Update and also give developers the opportunity to provide something beneficial to Merced County during the process.

Supervisor Nelson states the County needs to allow projects to bring in economic benefit to the County and the Board knows prime farmland needs to be preserved and this protection exists in the current General Plan. He suggests the matter be continued to May 2, 2006.

Following discussion, Supervisor Nelson withdraws his second to the motion on the floor.

The Chairman calls for a second to the Motion on the Floor. Motion dies for lack of a second.

Present: Nelson, Pedrozo, Kelsey, O'Banion

Following further discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board continues the matter to May 2, 2006, with the understanding all options and any staff recommendations will be provided to the Board prior to the meeting and public comments will be allowed.

Ayes: Nelson, Pedrozo, Kelsey, O'Banion

Not Present: Crookham

ACTION ITEM NO. 66

2006-04-11 HUMAN SERVICES AGENCY - AREA AGENCY ON AGING ADVISORY COUNCIL

The Clerk announces consideration of appointments to the Area Agency on Aging Advisory Council is before the Board for consideration.

Upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board appoints/reappoints the following to serve as members of the Area Agency on Aging Advisory Council:

Appoints Dolores Maples-Atwater AARP #2194, Su Briggs-CAA/CHERISH, Linda Lopez-Congressman Cardoza's representative, Donna Cardoza-Delhi Senior Club, Joe Cox-Los Banos Golden Agers, Marcia Langston-Merced AARP, Anthony Cody-Senior Companion & Catholic Charities, Leonard Baker-Winton Senior Social Club, and Dolores Ortiz-Merced Over-50 Club until December 31, 2006;

Reappoints John Mowrer-Alzheimer Association, Adela Saenz-Atwater Senior Social Club, Les Papazian-Atwater Senior Social Club, Tommie Monreal-Center for Independent Living, Roland Kelly-Central California Legal Services, Larry King-Costco Hearing Center, Kathy Wagner-Day Break Health Care Facility, Terri Hayworth-Day Out Adult Day Health Care, Johnna Meyer-Department of Aging, Gather Haynes-District Two, Carroll Reed-District 4, Ida Olson-District 5, JoAnn Baker-Dos Palos Senior Social Club, Cliff Serpa-Gustine Senior Social Club, John Wilkens-In-Home Supportive Services-Consumer, Jan Souza-Le Grand 50 Plus Club, Doris Ladd-Le Grand 50 Plus Club, June Muckey-Livingston Senior Social Club, Rick Dahlgren-Los Banos Golden Agers, Diana Utter-Merced AARP #282, Candice Steelman-Merced County Association of Governments, Chang Ger Xiong-Merced Lao Family Community Inc., Margaret Warmack-Merced Senior Social Club, Janet Demaree-Merced Senior Social Club, Carol Luhring-Merced/Mariposa Retired Teachers-Sr. Legislative Assembly, John Fisher-Public at Large-Merced, Pegg Eyerma-Public at Large-Westside, Milton McDowell-Public at Large-Merced & AAA, Mike O'Hare-Retired and Senior Volunteer Program, Joe Cox-Sr. Legislature, Mary Ward-State Assembly-Barbara Matthew's representative, Nellie McGarry-State Senate-Jeff Denham's representative, and Maria Nava-Valley Caregiver Resource Center until December 31, 2006.

Ayes: Nelson, Pedrozo, Kelsey, O'Banion

Not Present: Crookham

ACTION ITEM NO. 71

2006-04-11 HOUSING AUTHORITY OF THE COUNTY OF MERCED

The Clerk announces consideration of appointment to the Housing Authority of the County of Merced is before the Board for consideration.

Supervisor O'Banion moves, to accept the recommendation of the Housing Authority and appoint Frances Thompson.

Motion dies for the lack of a second.

Present: Nelson, Pedrozo, Kelsey, O'Banion

Not Present: Crookham

Supervisor Pedrozo moves, seconded by Supervisor Kelsey, the Board appoint Rob Macca to serve as a member of the Housing Authority of the County of Merced until February 18, 2010.

Supervisor Nelson states concern on January 24, 2006 Board Action when Tom May was appointed to serve as a member of the Housing Authority, the Board Members did not have background information on Mr. May and did not know that he does not live in Merced County.

Following discussion, the Chairman calls for a Vote on the Motion.

Motion carries.

Ayes: Nelson, Pedrozo, Kelsey, O'Banion

Not Present: Crookham

ACTION ITEM NO. 72

2006-04-11 MOSQUITO ABATEMENT DISTRICT

The Clerk announces the appointment to the Mosquito Abatement District is before the Board for consideration.

Supervisor Kelsey requests a continuance to allow the northern rural area of the County notification and states postings in the newspaper and the area can be completed.

Supervisor Kelsey moves, seconded by Supervisor Pedrozo, to continue the matter until June 13, 2006.

Following discussion, Manager Allan Inman, Mosquito Abatement District, states the northern rural is District Four and the western rural is District Five and the current At Large member lives in rural Atwater.

The Chairman calls for a Vote on the Motion on the Floor.

Motion carries.

Ayes: Nelson, Pedrozo, Kelsey, O'Banion

Not Present: Crookham