



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, MAY 02, 2006
Closed Session – 9:00 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

9:00 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): Two 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): George Jercich v. County of Merced, et al, Case #1:06-CV-00232-OWW-DLB

REVIEW BOARD ORDER - SEE PAGE 11

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 (Testimony limited to five minutes per person)

REVIEW BOARD ORDER – SEE PAGE 11

PRESENTATIONS

Dept. of Workforce Investment: mcbizhelp.com - A web portal for new and existing businesses that provides information and assistance at any stage of business development

REVIEW BOARD ORDER – SEE PAGE 11

PROCLAMATION - World Asthma Day

REVIEW BOARD ORDER – SEE PAGE 12

BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES (4/5 Vote Required) Dept. of Admin. Services-\$178,000; District Attorney-\$5,000 and \$12,500; Human Services Agency-\$4,000; Public Works-\$2,430, \$150,000 and \$1,000 and Sheriff-\$22,000, \$10,000 and \$80,000

APPROVED AS RECOMMENDED AYES: ALL

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 41)

APPROVED AS RECOMMENDED AYES: ALL

PUBLIC WORKS - PUBLIC HEARING

To consider Mitigated Negative Declaration for Buhach/Ashby Road Intersection Project

REVIEW BOARD ORDER – SEE PAGE 12

10:30 A. M.

PLANNING - CONTINUED PUBLIC HEARING

Appeal of Planning Commission denial of Minor Subdivision Application No. 05067 submitted by Frank Cuttone. Said application submitted by Vincent Plagenza 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 PAGE 12, 13 AND 14

REPORTS/BOARD DIRECTION

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 41)

APPROVED AS RECOMMENDED **AYES: ALL**

Public Works

1. Adopt Resolution for the Summary Vacation of a Public Utility Easement along Rancho Lane in Franklin-Beachwood area.
ADOPTED RESOLUTION NO. 2006-65
2. Adopt Resolution for Summary Vacation of Excess Street Right of Way along Rancho Lane in the Franklin-Beachwood area.
ADOPTED RESOLUTION NO. 2006-66
3. Approve the Plans and Specifications for the construction of the In-Roadway Warning Lights on Franklin Road, Plainsburg Road and Le Grand Road and authorize award if bids are within the established budget and direct Public Works to return to the Board as an Informational item disclosing the contract results.
4. Approve the Le Grand Community Day Committee request to use the Le Grand Community Park from May 25 through 27, 2006, waive the restriction on the use of alcoholic beverages and approve road closures from 8:00 a.m. through 11:00 p.m. as follows: barricade McDowell Street at Jefferson Street, barricade Adams Street from Santa Fe Avenue to the United Methodist Church on Washington Street and barricade Jefferson Street from Santa Fe Avenue, barricade Jefferson Street from McDowell Street to Le Grand Road and McDowell Street to Le Grand Road.
5. Adopt Resolution authorizing Chairman to sign Right of Way Contract No. 2006090 accepting the required Easement Deed from Frank and Rachel Fields for acquisition of 167 square feet of right of way for the construction of one wheelchair ramp and a public utility easement containing 115 square feet necessary for the realignment and reconstruction of Rancho Lane in Franklin-Beachwood.
ADOPTED RESOLUTION NO. 2006-67
6. Adopt Resolution authorizing Chairman to sign Right of Way Contract No. 2006091 accepting the required Easement Deed from Debra Anderson for acquisition of 150 square feet right of way for the construction of one wheelchair ramp and a public utility easement containing 108 square feet necessary for the realignment and reconstruction of Rancho Lane in Franklin-Beachwood.
ADOPTED RESOLUTION NO. 2006-68
7. Approve and authorize Chairman to sign and award Contract No. 2006092 to Universal Coatings, Inc. for Cressey Fire Station Re-roof.
8. Approve Budget Transfer for Public Works in the amount of \$6,500 and \$85,000 as recommended by Executive Office.

Mental Health

9. Approve and authorize Chairman to sign Renewal Contract No. 2000206 with 7th Avenue Center Institute for Mental Disease Services.
10. Approve and authorize Chairman to sign Amendment to Contract No. 2006006 with Five Acres, The Boys' and Girls' Aid Society of Los Angeles County for Therapeutic Behavioral Services.

Health

11. Approve and authorize Chairman to sign Interdepartmental Renewal Contract No. 2005216 with District Attorney Office for the investigation of fraud/abuse within the Indigent Health Care Programs with compensation not to exceed \$40,000.
12. Approve and authorize Chairman to sign Renewal Contract No. 2004185 with Central Self Storage for Storage of Records and Equipment.
13. Approve and authorize Chairman to sign Amendment to Contract No. 200087 with State Dept. of Health Services for AIDS case management funding through the Ryan White Care Act Program.
14. Approve and authorize Chairman to sign Amendment to Contract No. 2006096 with Calif. Dept. of Health Services for Medi-Cal Administrative Activities increasing the grant award and extending the term.
15. Approve and authorize Chairman to sign Renewal Contract No. 2005114 with Stephanie Russell, R.D. for Nutrition Consultant Services.

Human Services Agency

16. Approve and authorize Chairman to sign Renewal Contract No. 2004116 with Merced County Office of Education for Vocational Training Services.
17. Approve and authorize Chairman to sign Renewal Contract No. 2005298 with Merced Community College for Child Care for Foster Parents in training.
18. Approve and authorize Chairman to sign Amendment to Contract No. 2000235 with University of California, Davis for Staff training and development.
19. Approve and authorize Chairman to sign Renewal Contract No. 2004143 with Merced Union High School District for Adult Education and Training Services.
20. Approve and authorize Chairman to sign Renewal Contract No. 2002141 with Merced County Office of Education for Community Development and Support.
21. Approve Budget Transfer for Human Services Agency in the amount \$40 as recommended by Executive Office.

Sheriff

22. Approve and authorize Chairman to sign Interdepartmental Contract No. 200198 with Mental Health for officer meal food services to Marie Green Psychiatric Center.
23. Approve and authorize Chairman to sign Amendment to Contract No. 2004233 with Turlock Irrigation District for patrol services.
24. Approve and authorize Chairman to sign Amendment to Contract No. 2004327 with Stratford Evans Merced Funeral Chapel for rotational deceased removal services.
25. Approve and authorize Chairman to sign Amendment to Contract No. 2004266 with Winton Unified School District for Contractual Deputy Sheriff Services.

26. Set public hearing for May 16, 2006 at 10:00 a.m. to consider the Criminal Justice Administrative Fee to cover county expenses incurred in booking persons arrested and brought to the County Jail.

Executive Office

27. Approve Travel Requests received from Human Services Agency and Sheriff as recommended by Executive Office.
28. Act on Claims for Damages received by David Horn (2006-07), David Reece (2006-08), Randall Fleming (2006-12), Oscar Montoya (2006-13), Michael Cory Wilson (2006-23), Maria Reyna Gonzalez (2006-24), Rosa Elena Gonzalez (2006-25), Luis Manuel Gonzalez (2006-26) and Kyle Robert Hebert (2006-30) as recommended by Risk Management.

Dept. of Workforce Investment

29. Approve and authorize Chairman to sign Amendment to Contract No. 2004308 with Yosemite Chapter of SCORE for One Stop Services.
30. Approve and authorize Chairman to sign Amendment to Contract No. 2001103 with Calif. State Dept. of Rehabilitation for One Stop Partner System.

Board Recognition

31. Authorize Certificate of Recognition to Vickie Lewis for dedicated service as Interim City Manager for the City of Livingston.
32. Authorize Certificate of Recognition to Ray Ottman for selection as 2006 Hilmar Citizen of the Year.
33. Authorize Certificates of Recognition to individuals selected by American Legion Merced Post 83 for Fireman Awards.

REVIEW BOARD ORDER – SEE PAGE 14

34. Proclaim March 19 through 25, 2006 as Agricultural Week in the County of Merced.
35. Proclaim April 2006 as Sexual Assault Awareness Month and April 26, 2006 as Jeans for Justice Day in the County of Merced.
36. Proclaim April 23 through 29, 2006 as Safety Seat Checkup Week in the County of Merced.
37. Authorize Certificates of Recognition to Caltrans, MCAG and the City of Livingston in recognition of the Groundbreaking Ceremony for the Highway 99 Expansion Project.
38. Authorize Certificates of Recognition to Law Enforcement Officers recognized by Veterans of Foreign Wars Post #9946.

REVIEW BOARD ORDER – SEE PAGE 14 AND 15

Board of Supervisors

39. Approve Minutes of March 14, 21 and 28, 2006 as submitted.

District Attorney

40. Approve Budget Transfer in the amount of \$6,500 as recommended by Executive Office.

Ag. Commissioner

41. Approve Budget Transfer in the amount of \$12,165 as recommended by Executive Office.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

42. Authorize preparation of Engineer's Report and a Proposed Ordinance amendment to the County Code to mandate Zones of Benefit within County Service Area Number One for extended road maintenance services for newly created streets and roads by land development projects and direct Planning to recommend conditions of approval requiring such services in the interim period until the subject code section is amended.

REVIEW BOARD ORDER – SEE PAGE 15

43. Authorize Contract No. 2006093 with Rodriguez's Hot Dogs for Food Concession at Winton Park. (4/5 Vote Required)

APPROVED AS RECOMMENDED AYES: ALL

44. Authorize negotiation of Sole Source Contract with SCS Engineers for design/permitting and construction oversight special services for the closure and landfill gas collection system projects for Phases 1 through 4 of the Highway 59 Landfill to be returned to the Board for final approval.

APPROVED AS RECOMMENDED AYES: ALL

45. Resolution authorizing Chairman to sign Contract No. 2006094 with Caltrans for Federal Apportionment Exchange and State Match Program (State No. X06-5939(060)), to exchange Federal Funds with Non-Federal State Highway Account Funds.

ADOPTED RESOLUTION NO. 2006-69 AS RECOMMENDED AYES: ALL

MENTAL HEALTH

46. Authorize termination of Contract No. 2005028 with California Mental Health, Inc. effective March 31, 2006 understanding Mental Health Alcohol and Drug will ensure clients receive services.

APPROVED AS RECOMMENDED AYES: ALL

47. Authorize Contract No. 2006097 with Alliant University for student interns who agree to complete their field practicum requirements with Merced County Mental Health Department.

APPROVED AS RECOMMENDED AYES: ALL

48. Contract No. 2006098 with Crisis Support Services of Alameda County for After Hours Crisis Screening Services for support services for after hours mandated crisis services.

REVIEW BOARD ORDER – SEE PAGE 15

HEALTH

49. Authorize development and release of Request for Proposal to seek a qualified contractor to package, transport and dispose of Household Hazardous Waste (HHW) and return to the Board with recommendation.

APPROVED AS RECOMMENDED AYES: ALL

50. Authorize preparation and release of Request for Proposal to provide HIV Prevention Education and return for final approval.

REVIEW BOARD ORDER – SEE PAGE 16

51. Contract No. 2006099 with Health Plan of San Joaquin for Medical Case Management of CCS clients.

APPROVED AS RECOMMENDED **AYES: ALL**

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

52. Contract No. 2006100 with Federal Merced Associates, LLC for Castle Airport Sublease for Building 317.

APPROVED AS RECOMMENDED **AYES: ALL**

COUNSEL

53. Contract No. 2006101 with Allen, Polgar, Proietti and Fagalde for Legal Services in the areas of flooding issues.

APPROVED AS RECOMMENDED **AYES: ALL**

LIBRARY

54. Accept Application with California State Library and Bill and Melinda Gates Foundation for Grant funds and approve the necessary budget transfer. (4/5 Vote Required)

REVIEW BOARD ORDER – SEE PAGE 16

PLANNING

55. General Plan Amendment Policy and Procedures during the General Plan Update - Recommendation of Option 1. (Continued from April 11, 2006 Board Meeting)

REVIEW BOARD ORDER – SEE PAGE 16, 17 AND 18

HUMAN RESOURCES

56. Authorize correction to Administrative oversight for Position 30 to be placed at Step 4, Sheriff Sergeant Classification effective Pay Period 1, 2006, BU 22100 and authorize processing of an Auditor's Adjustment for Pay Period 1, 2005 through Pay Period 6, 2006.

APPROVED AS RECOMMENDED **AYES: ALL**

SHERIFF

57. Contract No. 2006103 with 35th District Agricultural Association for Law Enforcement Security Services for the 2006 Fair held at the Fairgrounds.

APPROVED AS RECOMMENDED **AYES: ALL**

DEPT. OF WORKFORCE INVESTMENT

58. Contract No. 2006104 with Merced Adult School for PLATO Basic Education Services.

APPROVED AS RECOMMENDED **AYES: ALL**

59. Contract No. 2006105 with California Army National Guard as One-Stop System Partners.

APPROVED AS RECOMMENDED **AYES: ALL**

EXECUTIVE OFFICE

60. Resolution increasing the existing Death Benefit from \$1,000 to \$3,000 predicated on the Retirement Board transferring all Death Benefit Retired Reserves to the County Advanced

Reserves for the purpose of accounting for assets related to the death benefit and to include in the actuarial asset base for the purpose of determining employer contributions (adopting Government Code Section 31789.3).

ADOPTED RESOLUTION NO. 2006-70 AS RECOMMENDED AYES: ALL

61. Service Agreement Renewal Contract No. 2006106 with Merced County Association of Governments for Work Program, General Membership Contribution and One Voice Membership of \$39,980.

APPROVED AS RECOMMENDED AYES: ALL

62. The Board finds the continued State of Emergency declared on April 11, 2006 no longer exists and the local emergency proclaimed by Resolution No. 2006-52 and concurred by the Director of Emergency Services for Merced County is hereby terminated effective April 25, 2006.

APPROVED AS RECOMMENDED AYES: ALL

63. Consider and take action to oppose AB 2987 which preempts local regulation of cable television service provided by telephone companies and authorize letter or opposition to Assemblymember Nunez.

APPROVED AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

64. Resolution supporting additional San Joaquin River surface water storage and the Temperance Flat Dam Project and authorize distribution to legislators and interested parties.

ADOPTED RESOLUTION NO. 2006-71 AS RECOMMENDED AYES: ALL

65. Resolution to support updating the federal Endangered Species Act and authorize distribution to legislators and interested parties.

ADOPTED RESOLUTION NO. 2006-72 AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

66. Workforce Investment Board – Reappointed Vann (Mike) Smith, Michael O. Sullivan, Rick Osorio and Carol Greenburg representing Private Sector; Andrea Baker and Phil Flores representing One Stop Partner; Chris Rosander representing Local Education and Charlie Lambert representing Labor Organization to serve as members of the Workforce Investment Board until June 30, 2010

APPROVED AS RECOMMENDED AYES: ALL

67. Winton Recreation Committee – Reappointed Kelley Thomas until August 9, 2007 and appointed Sharon Yates-Mudget, Otis Mudget, Gladys Flores and Elizabeth Thomas until August 9, 2007 and Russ Hippen until August 9, 2008.

APPROVED AS RECOMMENDED AYES: ALL

68. Snelling Municipal Advisory Council – Reappointed Charles Bauer and Maxine Price until February 16, 2010, Mary Souza until February 16, 2008 and appointed Frank Gasper until February 16, 2009 and Susan Ryan until February 16, 2008 to serve as members of the Snelling Municipal Advisory Council.

APPROVED AS RECOMMENDED AYES: ALL

69. Hilmar Municipal Advisory Council – Appointed Tim Jones to serve as a member of the Hilmar Municipal Advisory Council until May 3, 2010.

APPROVED AS RECOMMENDED AYES: ALL

70. Eagle Field Water District – Reappointed Sally Oldham and John Bennett to serve as members of the Eagle Field Water District until December 7, 2007.

APPROVED AS RECOMMENDED AYES: ALL

71. Current Vacant Positions and Current Expired Term Positions, April, 2006.

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

72. Dept. of Workforce Investment re: 2004/2005 WIA Subgrant Agreement R588733, Modification 8 with State Employee Development Department.

73. Plainsburg Union Elementary School District re: Notice of Resolution authorizing the collection of developer fees. (On file with Clerk)

74. Central Valley Regional Water Quality Control Board re: Notice of Meeting on May 4 and May 5, 2006.

75. San Joaquin Valley Air Pollution Control Board re: Request for comments on proposed amendments to District portion of California State Implementation Plan.

76. State Water Board re: Notice of Public Hearing - Total Residual Chlorine and Chlorine-Reduced Oxidants Policy of California.

77. State Water Resources Control Board re: Notice of Opportunity for public comment on a proposed amendment to the Water Quality Control Plan for the San Francisco Bay Region.

78. State Water Resources Control Board re: Notice of Public Hearing - Modifications to Water Quality Order No. 2004-009-DWQ - Statewide General National Pollutant Discharge Elimination System Permit for the Discharge of Aquatic Pesticides for Aquatic Weed Control (weed control permit).

79. State Water Resources Control Board re: Application 5632 - Order approving petition for temporary transfer of up to 125,000 acre-feet of water to the Dept .of Water Resources.

80. State Water Resources Control Board re: California Supreme Court upholds Water Boards win in L.A. Trash case, City of Arcadia v. State Water Resources Control Board.

81. State Water Resources Control Board re: Veteran Environmental Enforcer named State Water Board's new Director.

82. California Environmental Protection Agency re: Leviathan Mine Overflow update.

83. Sprint Nextel re: Notification letter of Fixed Wireless Telecommunications services in West Merced.

ADOPTED RESOLUTIONS IN MEMORY OF DOLORES CORONADO, WILLIS STRIBLING AND CLOERINE HEWLETT AND ADJOURNED THE MEETING UNTIL TUESDAY, MAY 9, 2006 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – MAY 2, 2006

9:00 A.M. SCHEDULED ITEM

2006-05-02 CLOSED SESSION

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

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): Two 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): George Jercich v. County of Merced, et al, Case #1:06-CV-00232-OWW-DLB

The Board recesses at 9:00 a.m. and reconvenes at 10:00 a.m. with the Chairman advising direction was given to Staff; in the matter of Existing Litigation, Supervisor Kelsey excused herself from participating citing she is a neighbor and is named in the lawsuit; and further, the Board issued a Press Release regarding the allegations regarding a grant-funded vehicle use by District Attorney Gordon Spencer investigation with the Board advising it will refrain from making statements regarding the matter until members can review the findings.
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

10:00 A.M. SCHEDULED ITEM

2006-05-02 PUBLIC OPPORTUNITY

The following speak relative to Proposition 215: Grant Wilson, Charles Igo, Peter Kias, Collett Alvernaz and Mary Fury. Aaron Smith, Coordinator for Safe Access Now appears and submits letter dated May 2, 2006.

Jay Barkley speaks relative to the mold in his home and responses he received from the builder and the County. He states he will submit a demand letter to the County.
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

10:00 A.M. SCHEDULED ITEM

2006-05-02 PRESENTATION - WORKFORCE INVESTMENT

Director of Department of Workforce Investment Andrea Baker presents a power point presentation for mcbizhelp.com, a web portal for new and existing businesses that provides information and assistance at any stage of business development.
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

10:00 A.M. SCHEDULED ITEM

2006-05-02 PRESENTATION

The Board presents a Proclamation to Manager Alicia Bohlke from the Merced/Mariposa County Asthma Coalition Program recognizing and proclaiming May 2, 2006 as "World Asthma Day" in Merced County and May, 2006 as "Asthma Awareness Month".
Present: Nelson, Pedrozo, Crookham, Kelsey, O'Banion

10:00 A.M. SCHEDULED ITEM

2006-05-02 PUBLIC WORKS – PUBLIC HEARING

The time and date previously set for a public hearing to consider the Mitigated Negative Declaration for the Buhach/Ashby Road Intersection Project submitted by Public Works.

Public Works Director Paul Fillebrown reviews the staff report.

The Chairman opens the public hearing and asks if there is anyone present wishing to speak. No one speaks.

The Chairman closes the public hearing.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Crookham, duly carried, the Board adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Buhach/Ashby Road Intersections Project.

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

10:30 A.M. SCHEDULED ITEM

2006-05-02 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 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.

Assistant Planning Director Bill Nicholson provides the summary background on the project application.

Planner Gene Berrera reviews the staff report and provides the power-point presentation.

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

The following speak:

Duane Andrews, Golden Valley Engineering, states all of the rules for division of the property have been met and disagrees with the Planning Commission decision to deny the project.

Frank Cutton, buyer and representative for Mr. Plagenza, states all of the stipulations for the project have been met and questions why an almost identical project was approved just before this project and this project was denied. Mr. Cutton states two members of the Planning Commission spoke during the hearing and states he feels all of the Commissioners should participate. He also believes the project was denied due to occupation discrimination because he is a developer and states the Board should comply with the state regulations.

Louie Bandoni states he lives across the street from the proposed project and is not against splitting the property into 20 acre parcels for family use but has concerns it would be used for different purposes that would affect the surrounding property. Mr. Bandoni also states the Municipal Advisory Council voted against the proposed project.

Les McCabe, Merced County Farm Bureau representative, states he is support of the Planning Commission's decision and reads and submits a letter dated April 4, 2006 from the Merced County Farm Bureau.

Jean Okuye states she believes the land should be kept in farming.

The Chairman closes the public hearing.

The Board discusses the access to public roads, flooding and CEQA findings.

Supervisor Pedrozo comments on the fact that the project was not approved by the Franklin/Beachwood Municipal Advisory Council.

Frank Cuttone reviews the intent of the property stating this land is a family investment and that he plans on farming a portion of it, building a home and raising horses. He states he understands concerns that the property will be split into one-acre parcels and be sold, but that is not his intention.

Following discussion, Supervisor O'Banion moves, seconded by Supervisor Crookham, to uphold the Appeal and overturn the determination of the Planning Commission and approve Minor Subdivision Application No. 05067 subject to the following Conditions, excluding Condition No. 6. (relative to CalTrans dedication of road right-of-way) as recommended in the Planning Staff Report and adopts the following Conditions:

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Planning Commission approval date as required by the Subdivision Map Act and Merced County Subdivision Code.
2. A Right-to-Farm Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the subject property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operation.
3. The project shall comply with the standard conditions of approval as adopted in Planning Commission Resolution No. 97-1.
4. The applicant shall comply with all applicable County, State and Federal regulations.
5. The property owner(s) shall dedicate to the County of Merced, annotated on the parcel map, an additional 10-foot width of road right-of-way along the entire frontage of Franklin Road to complete their half of an 80-foot ultimate right-of-way width.

6. The entrance to the parcels shall meet Public Road connection standards in accordance with those adopted by the California State Department of Transportation and the Merced County Public Works Department Road Division.
7. Any existing or proposed driveways accessing State right-of-ways shall meet current State Standards.
8. Irrigation water delivery shall be ensured to all new parcels and an irrigation easement be provided from the existing irrigation delivery gate currently serving the whole property if there is not an irrigation delivery located within each new parcel.
9. The applicant shall not discharge any agricultural drainage water from the property into MID laterals.
10. A Right-to-Aviate Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the subject property is in the vicinity of active aviation operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of aviation operation.

Following discussion on the parcel split sizes, Mr. Cutton states his request is to wind up with 4 legal descriptions.

The Board discusses the action taken by the Planning Commission and possibly referring the matter back to the Planning Department/Planning Commission for further review.

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

Supervisors Pedrozo and Kelsey vote "no". Motion carries.

Ayes: Nelson, Crookham, O'Banion

Noes: Pedrozo, Kelsey

CONSENT ITEM NO. 33

2006-05-02 BOARD OF SUPERVISORS

Upon motion of Supervisor O'Banion, seconded by Supervisor Kelsey, duly carried, the Board authorized Certificates of Recognition to the following individuals for being selected for the 2006 Firefighter of the Year Awards: Volunteer Russell Koehn-City of Livingston, Volunteer Hal Hogan-Los Banos City Fire, Volunteer Charlie Tanner-Gustine City Fire, Captain Mark Lawson-Merced County Fire, Volunteer Scott Silveira-Merced County Fire, Battalion Chief Bryan Donnelly-Merced City Fire, Volunteer Richard Getz-Atwater City Fire, Engineer Dwight Good-Atwater City Fire, Volunteer Dave Jordan-Dos Palos City Fire, and Dave & Tiffany Gossman-Heroism Award.

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

CONSENT ITEM NO. 38

2006-05-02 BOARD OF SUPERVISORS

Upon motion of Supervisor O'Banion, seconded by Supervisor Kelsey, duly carried, the Board authorized Certificates of Recognition to the following individuals selected by the Veterans of Foreign Wars Post #9946 for Law Enforcement Officers of the Year Awards: Deputy Roy Tighe-Officer of the Year, Merced County Sheriff Department; Officer Israel Rosales-Correctional Officer of the Year, Merced County Sheriff Department; Officer Darin Jantz-Officer of the Year, Atwater Police Department; Engineer Dwight Good-Firefighter of the Year, Atwater Fire Department;

Richard Getz-Volunteer Firefighter of the Year, Atwater Fire Department and Robert Ashburn-Volunteer of the Year, Atwater Police Department.

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

ACTION ITEM NO. 42

2006-05-02 PUBLIC WORKS

The Clerk announces the Extended Road Maintenance in new land developments through County Service Area Number One submitted by Public Works is before the Board for consideration.

Public Works Director Paul Fillebrown reviews the staff report advising County Ordinance No. 1487 provides for services to be established for street lighting, storm drainage, landscaping, parks and recreation as well as road maintenance under zones of benefit. He states Public Works recommends the Board provide direction to initiate amendments to the county code to mandate extended road maintenance services for new county roads created by land development projects and reviews the costs. He also recommends Conditions of Approval on such projects requiring establishment of extended road maintenance zone of benefits in the interim period until the subject code section is amended and in effect.

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board directs the preparation of an engineer's report and a proposed Ordinance amending Section 16.08.040 of the County Code to mandate Zones of Benefit within County Service Area Number One for extended road maintenance services for newly created streets and roads by land development projects and directs Public Works and Planning to recommend conditions of approval requiring such services in the interim period until the subject code section is amended.

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

ACTION ITEM NO. 48

2006-05-02 MENTAL HEALTH

The Clerk announces the Contract with Crisis Support Services of Alameda County for After Hours Crises Screening Services for after hours mandated crisis services submitted by Mental Health is before the Board for consideration.

Following discussion, Mental Health Director Troy Fox advises staff trained individuals will provide assessments and brief counseling to clients in critical need of after-hour counseling services without a disruption of services by allowing the local number to automatically roll to the Agency.

Upon motion of Supervisor Crookham, seconded by Supervisor Kelsey, duly carried, the Board approves and authorizes the Chairman to sign Contract No. 2006098 with Crisis Support Services of Alameda County for after hour crisis screening services for the Merced County Department of Mental Health.

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

ACTION ITEM NO. 50

2006-05-02 PUBLIC HEALTH

The Clerk announces the Request for Proposal to provide HIV Prevention Education is before the Board for consideration.

Public Health Director John Volanti reviews the staff report stating the HIV Prevention Education has been contracted out by the Health Department for several years. During last years approval process, the Board directed to initiate a Request for Proposal process to allow a competitive bidding process for this program.

Upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board authorizes Administrative Services-Support Services to prepare and release a Request for Proposal to provide HIV Prevention Education as outlined in the Scope of Work in the HIV Master Agreement and to return to the Board with an agreement for final contract and approval.

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

ACTION ITEM NO. 54

2006-05-02 LIBRARY

The Clerk announces the Bill and Melinda Gates Foundation Application for Grant Funds for the Library is before the Board for consideration.

Collett Alvernez, mother of 8 children, drives to the Turlock Library because the Merced County Library is behind and states she is happy there will be improvements in the Library.

Upon motion of Supervisor Crookham, seconded by Supervisor Pedrozo, duly carried, the Board approves and accepts the Bill and Melinda Gates Application, Contract No. 2006102, for Grant Funds in the amount of \$112,500 to purchase 75 computers as part of the Public Access Hardware Upgrade Program and approves the necessary budget transfer. (4/5 Vote Required)

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

ACTION ITEM NO. 55

2006-05-02 PLANNING

The Clerk announces the Continued discussion on the General Plan Amendment Policy and Procedures during the General Plan Update with Planning Recommendation of Option 1 is before the Board for consideration.

Planning and Development Services Director Robert Lewis reviews the staff report and states Planning Staff is recommending Option 1: To allow any property owner to submit a General Plan Amendment whether or not it involves a new or updated Community Plan. Applicant's would proceed at own risk and indemnify the County. Applicants shall pay all staff impact costs for the effort required to process their application or provide contract services for in-house staff sufficient to complete the project.

Supervisor Kelsey clarifies while the matter was heard for the first time on February 14th, she submitted the rudiments of Option 3B to the Planning Department via fax on February 7th and

it was not included in the Staff Report presented on February 14th and was therefore considered new information.

The Chairman reads a letter into the record received from Marsha Burch, Attorney at Law representing the San Joaquin Raptor Rescue Center, Protect Our Water and other groups, dated May 2, 2006 advising any attempts to retrieve documents and minutes to meetings of the General Plan Steering Committee have been unsuccessful.

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

The following speak:

Richard Cervantes states he was not aware of a building moratorium and is against this but supports Option 1.

Colletta Alvernez states her family has suffered with housing projects built next to her farmland and complains about the contractor's treatment and use their of farmland for parking of vehicles and equipment.

Jean Okuye requests the Board curb urban sprawl and support quality growth.

Cindy Lashbrook states the County needs to slow the rapid growth and speaks in support of the need for open space for wildlife habit and water conservation.

Assistant Planning Director Bill Nicholson states the County has approved a contract for a Public Outreach Program to address issues with the public regarding rapid growth. Mr. Nicholson also states joint public board meetings will be held with Planning, developers and others involved with the growth of the community.

Gregg Bock, Developer, reviews the process for any development in the County stating it is a detailed process of approval and includes payment of fees and review/studies not only with the County but with Fish and Wildlife, Fish and Game, Bureau of Reclamation and others including local Municipal Advisory Council approvals.

Mary Fury states the County should put a limit on the maximum of growth during the General Plan process such as 2 to 3%. Ms. Fury requests information on the Board's vision for the County in 20 years and submits a letter for the record.

Greg Coronado speaks in favor of Option 1.

Merced County Farm Bureau Executive Director Diana Westmoreland Pedrozo states she would like the Board to consider developer-driven projects during the general plan amendment process and that all options should be posted for the public. Mrs. Westmoreland Pedrozo reads a letter into the record regarding the General Plan Update.

Mr. Stone, Building Industry Association representative, states the BIA Board voted to support Option 1.

David Corser speaks in favor of a moratorium until the Plan is complete. He states a 17 million dollar farm worker camp is being constructed and will pave over a large amount of farm land.

Caroline Ford speaks in favor of some type of moratorium on growth.

Greater Merced Chamber of Commerce Director Steve Newvine speaks in support of Option 1 and states opposition to a moratorium while the General Plan Amendment is being prepared. He reads and submits a letter dated May 2, 2006 regarding the Chamber's support of Option 1.

The Chairman closes the public opportunity to speak.

Following discussion, Supervisor Pedrozo moves, seconded by Supervisor Kelsey, the Board accept General Plan Amendment Policy Option 2 (Limit by Date), Consider holding in abeyance as of May 2, 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). For Option 2, Staff recommends that applicants pay all staff impact costs as stated in Option 1. This does NOT include guidance packages previously adopted by the Board or those prospective projects in the works as of May 2, 2006.

Following discussion, the Board questions and requests additional information on the options provided.

Planning Director Lewis reviews Option 2, staff costs and ongoing applications impact.

Following discussion, County Counsel Ruben Castillo clarifies for the record that anything other than Option 1 would be some form of a moratorium and would need to comply and conform some type of ordinance with appropriate language for the effective date.

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

Supervisors Crookham, Nelson and O'Banion vote "no". Motion fails.

Ayes: Pedrozo, Kelsey

Noes: Nelson, Crookham, O'Banion

Supervisor O'Banion moves, seconded by Supervisor Crookham, to approve General Plan Amendment Policy Option 1 (Allow All).

The Chairman calls for a Vote on the Motion.

Supervisors Pedrozo and Kelsey vote "no". Motion carries.

Ayes: Nelson, Crookham, O'Banion

Noes: Pedrozo, Kelsey