



SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting
TUESDAY, JULY 11, 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.*

The Agenda is available online at www.co.merced.ca.us

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The Agenda is divided into three sections:

CONSENT CALENDAR – These matters include routine financial and administrative actions and are approved by a single majority vote.

SCHEDULED ITEMS – These items are noticed hearings, work sessions and public hearings.

REGULAR CALENDAR – These items include significant policy and administration actions. Immediately after approval of the CONSENT CALENDAR, if the time of the hearing of SCHEDULED ITEMS has not arrived, the REGULAR CALENDAR will be considered.

SCHEDULED ITEMS

9:00 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 LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Government Code Section 54956(b): One Case

CLOSED SESSION: It is the intention of the Board to meet in Closed Session pursuant to Government Code Section 54957: PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Title: Ag. Commissioner

THE BOARD RECESSED AT 9:00 A.M. AND RECONVENED AT 10:00 A.M. WITH THE CHAIRMAN ADVISING THERE IS NO REPORT

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)

PRESENTATION – James Tesone, Recognition of service to Plainsburg Elementary School

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 29)

APPROVED AS RECOMMENDED AYES: ALL

PUBLIC WORKS - PUBLIC HEARING

To consider Proposed Ordinance amending Chapter 5.64 to the Merced County Code and Ordinance No. 1752 entitled "User Charge Rates for Zones of Benefit" which would establish County Service Area Number One User

Rates for the 2006/2007 Fiscal Year

REVIEW BOARD ORDER – SEE PAGE 10

PLANNING - PUBLIC HEARING

To consider an Appeal received from Richard Uhrhammer to Planning Commission decision on Minor Subdivision Application No. 06015. Said Application is to subdivide a 50.5 acre parcel into two parcels, resulting in parcel sizes of: Parcel 1=20 acres and Parcel 2=30.5 acres on property located on the corner of El Capitan Way and Santa Fe Drive in Ballico

REVIEW BOARD ORDER – SEE PAGE 10, 11 and 12

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT - PUBLIC HEARING – FIRST READING, SET SECOND READING AND POSSIBLE ADOPTION FOR JULY 18, 2006 AT 10:00 A.M.

To consider Ordinance amending Business License Ordinance allowing for the deletion of Section 6.02.050(b) under "Term of Business License" (Amends Ordinance No. 1705 and Chapter 6.02)

REVIEW BOARD ORDER – SEE PAGE 12

REPORTS/BOARD DIRECTION

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

LUNCH BREAK

CONSENT CALENDAR (Items #1 - 29)

APPROVED AS RECOMMENDED AYES: ALL

Public Works

1. Approve plans and specifications for Replacement of Almond Avenue Bridge over the Livingston Canal with Public Works to return to the Board with Award Results.

District Attorney

2. Approve District Attorney's participation in the Rural Crime Prevention Program and authorize Chairman to sign Contract No. 2001104 and Certificate of Assurance of Compliance forms with Central Valley Rural Crime Prevention Program for continued grant funding for FY 2006/2007 and adopt Resolution.

ADOPTED RESOLUTION NO. 2006-128

Probation

3. Approve and authorize Chairman to sign Interdepartmental Renewal Contract No. 2004261 with Sheriff for meals and laundry service for the Iris Garrett Juvenile Justice Correctional Complex.

Sheriff

4. Approve and authorize Chairman to sign Amendment to Contract No. 2003249 with City of Atwater for law enforcement communications assistance.

5. Approve and authorize Chairman to sign Amendment to Contract No. 2004264 with Delhi Unified School District for contractual Deputy Sheriff.
6. Approve and authorize Chairman to sign Amendment to Contract No. 2005231 with City of Dos Palos for Dispatch Services.
7. Approve and authorize Chairman to sign Interdepartmental Amendment to Contract No. 2003153 with Parks and Recreation for weekend law enforcement services at Lake Yosemite.
8. Approve and authorize Chairman to sign Interdepartmental Renewal Contract No. 2005274 with Merced County Library for Correctional Officer Core Academy Training space.

Mental Health

9. Approve and authorize Chairman to sign Renewal Contract No. 2004149 with Value Options, Inc. for manager of network provider of Specialty Mental Health services.
10. Approve and authorize Chairman to sign Renewal Contract No. 2004064 with Fresno Care & Guidance for Institute for Mental Disease services.
11. Approve and authorize Chairman to sign Renewal Contract No. 2006018 with Healthy House Within A Match Coalition for Interpreter services.
12. Approve and authorize Chairman to sign Amendment to Contract No. 2006058 with Rutan and Tucker, LLP for outside counsel for two adolescent clients who are wards of Merced County.
13. Approve and authorize Chairman to sign Renewal Contract No. 2004347 with Victor Treatment Center for Residential Treatment Facility for Youth-Ages 7 to 20.

Human Services Agency

14. Approve and authorize Chairman to sign Amendment to Contract No. 2004155 with CareAccess for Q Continuum software system for mandated reporting, billing and case management services.
15. Approve and authorize Chairman to sign Amendment to Contract No. 2004153 with McWilliams Mailliard Technology Group for Adult Protective Services Software.
16. Approve and authorize Chairman to sign Renewal Contract No. 2002169 with Merced County In-Home Supportive Services Public Authority for In-Home Supportive Services.
17. Approve and authorize Chairman to sign Renewal Contract No. 2006182 with Brawley Enterprises for office space at 1112 West 16th Street, Merced.
18. Approve and authorize Chairman to sign Renewal Contract No. 200297 with Valley Caregiver Resource Center for National Family Caregiver Support Program.
19. Approve and authorize Chairman to sign Renewal Contract No. 2005035 with Catholic Charities of the Diocese of Fresno for Senior Companion Program.

Planning

20. Set public hearing for July 25, 2006 at 10:00 a.m. to consider the past Community Development Block Grant performance, Annual Grantee Performance Report, proposed amendments to the CDBG and HOME Guidelines.

Board of Supervisors Office

21. Approve Board Meeting Minutes of May 2, 9 and 16, 2006 as submitted.

Board Recognition

22. Authorize Certificates of Recognition to Linda Lopez, Jackie Merrell, Barbara Nicoletti and Georgia Pacini in recognition of their dedicated service to the Dos Palos Hospital and the community.
23. Authorize Certificate of Recognition to Castle Challenger Learning Center in recognition of their 10th Anniversary.
24. Authorize Plaque to Fire Station No. 2/Police Detective Substation in Celebration of their Groundbreaking Ceremony.
25. Authorize Certificate of Recognition to The Housing Authority of the County of Merced for the Groundbreaking Ceremony in recognition of the naming of the Marlin H. Nachtigal Administration Building.
26. Authorize Certificate of Recognition to Pat Bauer for his 30 Years of Dedicated Service with the California State Automobile Association.
27. Authorize Certificate of Recognition to Fernando's Bistro in celebration of their Ribbon Cutting and Open House.
28. Authorize Certificates of Recognition to Janet Ramsey, Secretary; Donna Clary, Vice President; Louise Farley, President and Susan Moranda, Treasurer for their dedicated service to the Merced Business and Professional Women.

Executive Office

29. Approve Travel Request for Commerce, Aviation and Economic Development as recommended by Executive Office.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

30. Award Contract to Republic Electric for In-Roadway Warning Lights at the following Various Locations: Franklin Elementary School, Cesar Chavez School, Le Grand High School and Le Grand Elementary School.
AUTHORIZED CONTRACT NO. 2006184 AS RECOMMENDED AYES: ALL
31. Award Contract to SCS Engineers for Landfill Gas Engineering and Air Quality Services for the Highway 59 Landfill.
AUTHORIZED CONTRACT NO. 2006183 AS RECOMMENDED AYES: ALL
32. Resolution accepting a public utility easement associated with the new Elementary School along Rancho Lane from the Merced City School District.
ADOPTED RESOLUTION NO. 2006-129 AS RECOMMENDED AYES: ALL
33. Contract with Merced County Head Start (located at Merced County Fairgrounds) to allow five of its vehicles to park on County Property at the Public Works Facility located at 715

Martin Luther King Jr. Way, Merced.

AUTHORIZED CONTRACT NO. 2006185 AS RECOMMENDED AYES: ALL

34. Contract with Office of State Controller, Division of Local Government Audits to prepare the Annual Street and Road Report for FY 2005/2006 at an estimated cost not to exceed \$3,200.

AUTHORIZED CONTRACT NO. 2006186 AS RECOMMENDED AYES: ALL

35. Authorize rate adjustments for solid waste collection services provided by Gilton Solid Waste Management and Waste Management Inc. effective August 1, 2006.

APPROVED AS RECOMMENDED AYES: ALL

SHERIFF

36. Resolutions authorizing and establishing Destruction of Records Policy for Employment Backgrounds and Employee Training Records pursuant to Government Code Section 26202 and Policy for Citizen Complaint Records, Reports and Findings pursuant to Penal Code 832.5 and Government Code 34090 for the Sheriff Department.

ADOPTED RESOLUTION NO. 2006-130 (Employment Records) AND NO. 2006-131 (Citizen Reports) AS RECOMMENDED AYES: ALL

AG. COMMISSIONER

37. Adopt Resolution authorizing Chairman to sign Contract with Calif. Dept. of Food and Agriculture for Red Imported Fire Ant inspections on incoming beehives.

AUTHORIZED CONTRACT NO. 2006187 AND ADOPTED RESOLUTION NO. 2006-132 AS RECOMMENDED AYES: ALL

HEALTH

38. Contract with Planned Parenthood Mar Monte to provide HIV Education and Prevention Outreach Activities as outlined in Scope of Work.

REVIEW BOARD ORDER – SEE PAGE 12

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

39. Contract with Ayman Kozman, Inc. dba Skykit for portion of Building 1340 for a pilot's supply and equipment store at Castle Airport Aviation and Development Center.

AUTHORIZED CONTRACT NO. 2006189 AS RECOMMENDED AYES: ALL

40. Foreign Trade Zone No. 226 - Approve the Tariff Schedule Adjustments and adopt Resolution.

ADOPTED RESOLUTION NO. 2006-133 AS RECOMMENDED AYES: ALL

41. Resolution approving the withdrawal of 9.30 acres from Foreign Trade Zone No. 226 Site 1A (Castle Airport) and Site 12 (City of Selma).

ADOPTED RESOLUTION NO. 2006-134 AS RECOMMENDED AYES: ALL

42. Contract with Federal Merced Associates, LLC for Buildings No. 1333 and 1335 to store construction materials for building improvements being done on Buildings 175, 1360, 428, 429 and 1107 at Castle Airport Aviation and Development Center.

AUTHORIZED CONTRACT NO. 2006190 AS RECOMMENDED AYES: ALL

43. Accept the Federal Aviation Administration Grant Agreement Offer (Project No. 3-06-0364-08) to conduct Rehabilitation Taxiway Apron (design only), Install Access Control Gate System (analysis and design) and Rehabilitate Taxiway Lighting-Medium Intensity Taxiway

Lighting (MITI) (design only) Airport Design Projects, authorize Chairman to sign Calif. Dept. of Transportation Matching Grant Application for FAA Airport Improvement Program in the amount of \$142,579 and Grant Agreement with U.S. Federal Aviation Administration Western-Pacific Region and adopt Resolution authorizing submittal of all required documents to Division of Aeronautics, Calif. Dept. of Transportation.

AUTHORIZED CONTRACT NO. 2006180 AND ADOPTED RESOLUTION NO. 2006-135 AS RECOMMENDED AYES: ALL

HUMAN SERVICES AGENCY

44. Contract with Calif. Health and Human Services Agency for inter-jurisdictional exchange of county employee for Subject Matter Expertise (SME) that will provide expert skills for the design and development of the CMIPS II Project.

AUTHORIZED CONTRACT NO. 2006181 AS RECOMMENDED AYES: ALL

MENTAL HEALTH

45. Contract with Merced Lao Family Community, Inc. for development of Southeast Asian Community Advocacy Program (SEACAP) through the Mental Health Services Act Three Year Plan.

AUTHORIZED CONTRACT NO. 2006191 AS RECOMMENDED AYES: ALL

COUNTY COUNSEL

46. Approve and authorize Chairman to sign Indemnity Agreement with Fox Hills Development Corporation.

AUTHORIZED CONTRACT NO. 2006192 AS RECOMMENDED AYES: ALL

DEPT. OF WORKFORCE INVESTMENT

47. Accept resignation of Scott Galbraith from Workforce Investment Board and authorize the necessary postings.

APPROVED AS RECOMMENDED AYES: ALL

48. Youth Council Nomination - Recommendation for Appointment of Isabel Nash.

APPROVED AS RECOMMENDED AYES: ALL

EXECUTIVE OFFICE

49. Support Kern County and oppose the Clean Alternative Energy Act, Proposition 87.

APPROVED AS RECOMMENDED AYES: ALL

BOARD APPOINTMENTS

50. Merced Cemetery District - Appoint Sandy Teague to fill unexpired term until November 25, 2007.

APPROVED AS RECOMMENDED AYES: ALL

51. May Day Fair Board - Reappoint Diane Neves and David Pruitt until July 1, 2010, Paul Parreira and Ron Borrelli until July 1, 2009 and appoint Jonathan Andrews until July 1, 2007, Scott Silveira and Pat Gollichio until July 1, 2008.

Reappoint Kim Rogina to serve as a member of the May Day Fair Board until July 1, 2010.

APPROVED AS RECOMMENDED AYES: ALL

52. Current Vacant Positions and Current Expired Term Positions, July, 2006.

ACCEPTED AND PLACED ON FILE AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

53. Human Services Agency re: Outcome Improvement Project Funding.
54. Santa Cruz County Board of Supervisors re: Alert of action to establish a moratorium prohibiting the planting and production of genetically engineered (GE) crops in Santa Cruz County. (On file with Clerk)
55. San Joaquin Valley Air Pollution Control District re: 2006-07 Adopted Budget. (On file with Clerk)
56. State Water Quality Control Board re: Notice of Opportunity for further public comment on the proposed amendment to the Water Quality Control Plan for the Central Valley Region incorporating a plan for the control of mercury in Cache Creek, Bear Creek, Sulphur Creek and Harley Gulch.
57. State Water Resources Control Board re: Notice of Meeting moved from July 5, 2006 to July 19th, 2006.
58. State Water Resources Control Board re: Notice of Public Scoping Meetings for California Ocean Plan, Areas of Special Biological Significance (ASBS), Special Protections to Address Storm Water and Nonpoint Source Discharges.
59. State Water Resources Control Board re: Notice of Public Workshops - Findings of the Storm Water Panel of Experts set for July 21, 2006 in Sacramento and July 28, 2006 in Los Angeles.
60. U.S. Army Corps of Engineers re: Special Public Notice and Draft Environmental Impact Statement - University of California at Merced Campus Project, County of Merced Infrastructure Project, Merced County, Summary dated June, 2006. (On file with Clerk)
PULLED FROM THE AGENDA – NO ACTION TAKEN
61. California Dept. of Toxic Substances Control re: Update on new programs and policies to ensure the environment and public health are protected.

ADOPTED RESOLUTIONS AND ADJOURNED MEETING IN MEMORY OF GAITHER HAYNES AND THEODORE DALLAS UNTIL TUESDAY, JULY 18, 2006 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – JULY 11, 2006

10:00 A.M. SCHEDULED ITEM

2006-07-11 PUBLIC WORKS – PUBLIC HEARING

The date and time previously set for a public hearing to consider Proposed amendment to Chapter 5.64 of the Merced County Code and Amendment to Ordinance 1752 entitled “User Charge Rates for Zones of Benefit” which would establish County Service Area Number One User Charge Rates for Fiscal Year 2006/2007 submitted by Public Works.

The Clerk reads the Proposed Ordinance by title only: An Ordinance Amending and Adopting the County Service Area Number One User Charge Rates for Zones of Benefit in the 2006/2007 Fiscal Year (Amends Ordinance No. 1752).

Upon motion of Supervisor Crookham, seconded by Supervisor Pedrozo, duly carried, the Board waives further reading of the Proposed Ordinance.

The Chairman opens the Public Hearing. No one speaks.

The Chairman closes the Public Hearing.

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board adopts Ordinance No. 1783.

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

10:00 A.M. SCHEDULED ITEM

2006-07-11 PLANNING – PUBLIC HEARING

The date and time previously set for a public hearing to consider An Appeal of the Planning Commission Denial of Minor Subdivision No. 06-015 submitted by Richard Uhrhammer to subdivide a 50.5 acre parcel into a 20 acre parcel with a 30.5 acre Remainder located at the southwest corner of El Capitan Way and Santa Fe Drive in Ballico.

Planner III Bob King reviews the Staff Report advising the Planning Commission denied the application due to the inability to make Findings #8 and #13 of the Staff Report.

The Chairman opens the Public Hearing.

Larry Bowers, Bedesen-Cardoza & Associates, Inc., appears on behalf of the applicant Richard Uhrhammer, stating the Merced County Farm Bureau was the only opposition at the Planning Commission Hearing and they have since withdrawn their opposition. Mr. Bowers states the applicant would like to divide his land and continue to farm almonds and sell the remainder of the property.

Following discussion, Supervisor Kelsey moves, seconded by Supervisor Pedrozo, to uphold the Planning Commission decision and deny the Appeal of Minor Subdivision No. 06-015 based on the inability to make the Finding Nos. 8 and 13.

The Board discusses the variance application process, the findings, Planning Department recommendation and the Merced County Farm Bureau position.

Following further discussion, Supervisor O'Banion states this application conforms to the general plan as it stands today and feels the application should be considered for approved.

The Chairman calls for a Vote on the Motion.

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

Ayes: Pedrozo, Kelsey

Noes: Crookham, Nelson, O'Banion

Following further discussion, Supervisor O'Banion moves, seconded by Supervisor Crookham, the Board uphold the Appeal and overturn the determination of the Planning Commission, exempt the application from CEQA and approve Minor Subdivision Application No. 06-015 based on Findings and subject to 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. The project shall comply with the standard conditions of approval as adopted in Planning Commission Resolution No. 97-1.
3. 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.
4. The applicant shall comply with all County, State and Federal regulations.
5. The Parcel Map shall identify irrigation easements to all parcels as shown on the tentative parcel map.

Public Works, Roads Division Condition

6. The property owners shall dedicate to the County of Merced, annotated on the parcel map, an additional 10-foot width of additional right-of-way along the entire frontage of El Capital Way to complete the half of the roads 80 foot right-of-way.

Supervisor Kelsey states she cannot support the motion and the project is in her district due to the following: exempting the project from CEQA is incorrect, the project is inconsistent with the general plan and there are unknown consequences to neighboring property of the dairy and limits the ability of the dairy to operate with adjacent homes.

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

10:00 A.M. SCHEDULED ITEM

2006-07-11 COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT – PUBLIC HEARING

The date and time previously set for a public hearing to consider Proposed Ordinance Amending Business License Ordinance No. 1705, Chapter 6.02 of the Merced County Code to Delete Section 6.02.050 (b) Term of Business License submitted by Commerce, Aviation and Economic Development.

The Clerk reads the Proposed Ordinance by title only: An Ordinance amending Business License Ordinance allowing for the deletion of Section 6.02.050(b) under "Term of Business License" (Amends Ordinance No. 1705 and Chapter 6.02).

The Chairman opens the Public Hearing. No one speaks.

The Chairman closes the Public Hearing.

Upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board waives further reading of the Proposed Ordinance and sets the Second Reading and possible adoption of the Proposed Ordinance for July 18, 2006 at 10:00 a.m.

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

ACTION ITEM NO. 38

2006-07-11 HEALTH

The Clerk announces the Contract with Planned Parenthood Mar Monte to provide HIV Education and Prevention Outreach Activities is before the Board for consideration.

The Chairman asks if there is anyone from the Public who wishes to speak.

Susan Hampton, Rhonda Jenkins, Carl Gregory and Doris Avila speak in opposition to Planned Parenthood receiving funds and operating the HIV education activities.

Public Health Director John Volanti reviews the Staff Report stating the Board authorized a Request for Proposal process for FY 2006/07 to allow a competitive bidding process for the HIV Prevention Education portion of the AIDS Master Contract and the only response received was from Planned Parenthood.

Following a lengthy discussion, Supervisor O'Banion moves, seconded by Supervisor Kelsey, duly carried, the Board authorizes the Chairman to sign Contract No. 2006188 with Planned Parenthood Mar Monte in the amount of \$40,000 to provide HIV Education and Prevention Outreach Activities as outlined in the Scope for Work for the 2006-2007 Fiscal Year.

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