

# SUMMARY ACTION MINUTES

## BOARD OF SUPERVISORS

Regular Meeting  
TUESDAY, SEPTEMBER 25, 2007  
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

CHAIRMAN JOHN PEDROZO.....DISTRICT 1  
KATHLEEN M. CROOKHAM.....DISTRICT 2  
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

JAMES N. FINCHER  
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](http://www.co.merced.ca.us)**

**Members of the public are advised that all pagers, cellular telephones and any other communication devices are to be turned off upon entering the Board Chambers**

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INQUIRE WITHIN THE BOARD OF SUPERVISORS OFFICE

Persons who require accommodation for any audio, visual or other disability in order to review an agenda, or to participate in a meeting of the Board of Supervisors per the American Disabilities Act (ADA), may obtain assistance by requesting such accommodation in writing addressed to the Clerk of the Board, 2222 M Street, Merced, CA 95340 or telephonically by calling (209) 385-7366. Any such request for accommodation should be made at least 48 hours prior to the scheduled meeting for which assistance is requested

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 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 - EXISTING**

**LITIGATION:** It is the intention of the Board to meet in Closed Session concerning Existing Litigation pursuant to Government Code Section 54956.9(a): Turnbough v. Merced County Sheriff's Dept., Merced County Superior Court Case No. 147905

**CLOSED SESSION:** It is the intention of the Board to meet in Closed Session pursuant to Government Code Section 54957:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION: County Ag Commissioner/Sealer of Weights and Measures/Director of Animal Control and Director of Development Services

**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 RECESSED AT 9:00 A.M. AND RECONVENED AT 10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN ADVISED STAFF WAS PROVIDED DIRECTION**

**GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)**

10:00 A. M.

**PLEDGE OF ALLEGIANCE**

10:00 A. M.

**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 7**

**PRESENTATION**

Mental Health - Progress Report from the UC Merced Campus/Community Alcohol and Other Drug Issues Workgroup

**REVIEW BOARD ORDER – SEE PAGE 7**

**BUDGET TRANSFERS FROM REVENUE/CONTINGENCIES** (4/5 Vote Required) Sheriff - \$12,000

**APPROVED AS RECOMMENDED AYES: ALL**

**APPROVAL OF CONSENT AGENDA CALENDAR** (Items #1 - 11)

**APPROVED AS RECOMMENDED AYES: ALL**

**COUNTY COUNSEL - PROPOSED ORDINANCE - FIRST READING - SET SECOND READING AND POSSIBLE ADOPTION FOR OCTOBER 2, 2007**

To consider Proposed Ordinance Designating Operating Times for Public Cemeteries in the County of Merced and Prohibiting the Possession and Consumption of Alcoholic Beverages on Public Cemetery Property

**REVIEW BOARD ORDER – SEE PAGES 7 AND 8**

**PLANNING - PUBLIC HEARING - INTENDED DECISION**

To consider General Plan Amendment Application No. GPA07-005 and Zone Change Application No. ZC07-005 submitted by the County of Merced to amend the General Plan land use designation from Agricultural (Fresno County) to Agricultural (Merced County) and to change the zoning designation from Exclusive Agricultural (AE-20) (Fresno County) to General Agricultural (A-1) (Merced County) for 4,175 acres or 6.52 square miles of agricultural land on property bounded by the Merced County boundary line and the City of Dos Palos to the north and west, Merrill Avenue to the south and Custer Avenue to the east

**REVIEW BOARD ORDER – SEE PAGE 8**

**PLANNING - PUBLIC HEARING - INTENDED DECISION**

To consider General Plan Amendment Application No. GPA06-007, Zone Change Application No. ZC06-008 and Major Subdivision Application No. MAS06-013 submitted by Stanley Morimoto to amend the General Plan land use designation from Cressey SUDP Commercial to Cressey SUDP Agricultural Residential and to change the zoning designation from General Commercial (C-2) to Agricultural Residential (A-R) for a 1.4 acre portion of a 27 acre parcel and a major subdivision to divide 27 acres into 11 one acre residential lots with a 13.8 remainder parcel on property located on the northeast side of Santa Fe Drive and west of Cressey Way in Cressey

**REVIEW BOARD ORDER – SEE PAGES 9, 10, 11 and 12**

10:00 A. M.

**PLANNING - PUBLIC HEARING - GENERAL PLAN AMENDMENT CYCLE III - PROPOSED ORDINANCES AND POSSIBLE ADOPTION**

To consider Cycle III General Plan Amendment for 2007. Cycle III consists of: General Plan Amendment No. GPA06-007, Zone Change Application No. ZC06-008, and Major Subdivision Application No. MAS06-013 - Stanley Morimoto and General Plan Amendment No. 07-005, Zone Change Application No. ZC07-005 - County of Merced

**REVIEW BOARD ORDER – SEE PAGES 12 AND 13**

**REPORTS/BOARD DIRECTION**

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

CONSENT CALENDAR (Items #1 - 11)

**APPROVED AS RECOMMENDED AYES: ALL**

Planning

1. Approve and authorize Chairman to sign Amendment to Contract No. 2006265 with Jones and Stokes Associates, Inc. for additional work required for preparation of an Environmental Assessment, Finding of No Significant Impact and Negative Declaration for the CDBG awarded project to build a new passenger terminal at Castle Airport.
2. Set public hearing to consider vacating and rescinding action on Fox Hills Community Specific Plan Update for October 16, 2007 at 10:00 a.m.

Executive Office

3. Act on Claim for Damages submitted by Tanya Russell (2007-1164) as recommended by Executive Office.
4. Approve Travel Request for Public Works as recommended by Executive Office.
5. Approve and authorize Chairman to sign Amendment to Contract No. 2007236 for Excess Insurance Program (Health) MOU for the EIA Health Program.

Board Recognition

6. Authorize Certificate of Recognition to Atwater Women's Club for Clubhouse Renovations and Ribbon Cutting.
7. Authorize Certificate of Recognition to Karen Callahan for Dedicated Service to the Merced County Food Bank.
8. Authorize Certificate of Recognition to State Farm Insurance (Terry Solano) for Ribbon Cutting.
9. Authorize Certificates of Recognition for Hispanic Chamber of Commerce Awards as follows: Fernando's Bistro-Business of the Year, Merced School Employees Federal Credit Union-Member of the Year, Lori Gallo-Woman of the Year and Joe Ramirez-Man of the Year.
10. Authorize Certificate of Recognition to The Merced Theatre Foundation in Celebration of the Major Grant Funding for Phase 3 Renovation of the Historic Merced Theatre from the California Cultural and Historical Endowment.

**THE PUBLIC IS INVITED TO SPEAK ON ANY ITEM ON THE AGENDA**

11. Authorize Certificate of Recognition to Atwater Chamber of Commerce for 50th Anniversary.

## REGULAR CALENDAR

### BOARD ACTION

#### PUBLIC WORKS

12. Contract with Penguin La Natural to operate a mobile ice cream concession at Hagaman Park. (4/5 Vote Required)

**AUTHORIZED CONTRACT NO. 200064 AS RECOMMENDED AYES: ALL**

13. Construction of New Animal Control Facility at Castle Airport - Recommended Actions.

**REVIEW BOARD ORDER – SEE PAGE 13**

#### SHERIFF

14. Authorize purchase of Crime Scene Measurement Station from Visual Statement, Inc. (22100/88372) and approve the Budget Transfer-\$3,000. (4/5 Vote Required)

**APPROVED AS RECOMMENDED AYES: ALL**

#### HEALTH

15. Contract with California Dairy Research Foundation for preparing Dairy Educational materials and authorize Environmental Health to sign all payment requests and adopt Resolution.

**AUTHORIZED CONTRACT NO. 2007233 AND ADOPTED RESOLUTION NO. 2007-144 AS RECOMMENDED AYES: ALL**

16. Contract with 21st Century Environmental Management Inc. (EMI) for household hazardous waste disposal for FY 2007/08 and adopt Resolution.

**AUTHORIZED CONTRACT NO. 2007234 AND ADOPTED RESOLUTION NO. 2007-145 AS RECOMMENDED AYES: ALL**

#### CHILD SUPPORT SERVICES

17. Authorize Temporary Change in Service Hours from 9:00 a.m. to 5:00 p.m. for two weeks effective November 5 through November 16, 2007.

**APPROVED AS RECOMMENDED AYES: ALL**

#### HUMAN SERVICES AGENCY

18. Contract with Mobley Enterprises LLC for Child Welfare space lease.

**AUTHORIZED CONTRACT NO. 2007235 AS RECOMMENDED AYES: ALL**

#### DEPT. OF ADMIN. SERVICES

19. Declare two hundred personal computers as Surplus Property and authorize the donation of these computers to Aspira and to The Core Connection.

**APPROVED AS RECOMMENDED AYES: ALL**

#### COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

20. Accept the need for a Castle Airport name change; select the preferred name and direct staff to publish changes as required.

**REVIEW BOARD ORDER – SEE PAGE 14**

BOARD APPOINTMENTS

- 21. Library Advisory Commission – Reappointed BJ Hunt, representing District Two, until August 31, 2011.

**APPROVED AS RECOMMENDED      AYES: ALL**

BOARD INFORMATION & POSSIBLE ACTION

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

- 22. Lower San Joaquin Levee District re: Response on status of the flood project levees.  
**REVIEW BOARD ORDER – SEE PAGE 15**
- 23. California Dept. of Fish and Game re: Notice of Proposed Regulatory action relating to Ecological Reserves.
- 24. State Water Resources Control Board re: Notice of Opportunity for Public Comment on the California Department of Transportation's Storm Water Management Plan.

**ADOPTED RESOLUTIONS IN MEMORY OF ROSE VIERRA, RONALD DEWING AND MARGARET F. BOYCE AND ADJOURNED MEETING UNTIL TUESDAY, OCTOBER 2, 2007 AT 10:00 A.M.**

## **BOARD ORDERS – SUMMARY ACTION MINUTES – SEPTEMBER 25, 2007**

### **10:00 A.M. SCHEDULED ITEM**

#### **2007-09-25 PUBLIC OPPORTUNITY**

Merced County Farm Bureau Executive Director Diana Westmoreland-Pedrozo submits a magazine entitled *California Country* and refers to an article about Merced County's land use and general plan and provides a flyer for a Town Hall Forum scheduled for October 8, 2007.

Deputy Director Scott Pettygrove, on behalf of Human Services Agency Director Ana Pagan, states the Human Services Agency received a Recognition of Excellence from the State of California for the Food Stamp Program quality control advising the 2 percent error rate places Merced County fourth amongst California Counties.

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

### **10:00 A.M. SCHEDULED ITEM**

#### **2007-09-25 PRESENTATION – MENTAL HEALTH**

Mental Health Director Troy Fox reviews a powerpoint presentation and progress report from the UC Merced Campus/Community Alcohol and Other Drug Issues Workgroup regarding the prevention of alcohol and other drug use and related issues. He advises the presentation is an update on the progress and activities of the Workgroup and is an outline for the next steps envisioned by the workgroup in bringing forward recommended policy actions for the Board's considerations.

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

### **10:00 A.M. SCHEDULED ITEM**

#### **2007-09-25 COUNTY COUNSEL – PROPOSED ORDINANCE – FIRST READING**

The time and date previously set to consider First Reading of Proposed Ordinance submitted by County Counsel. The Clerk reads the Ordinance by title only: An Ordinance Designating Operating Times for Public Cemeteries in the County of Merced and Prohibiting the Possession and Consumption of Alcoholic Beverages on Public Cemetery Property.

Upon motion of Supervisor O'Banion, seconded by Supervisor Kelsey, duly carried, the Board waives further reading of the Proposed Ordinance.

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

County Counsel James Fincher states the purpose of the proposed Ordinance is to provide tools necessary to protect the public cemetery districts property and to reduce property damage to grave sites since there has been an increase in the number of incidences of loitering, disturbing the peace and consumption of alcohol at local cemeteries.

Sheriff Mark Pazin states the proposed ordinance is not to preclude anyone from going to the cemetery property to visit their loved ones but there will be a plan to ensure those persons can visit in peace.

Supervisor Kelsey thanks Winton Cemetery District and Toni Wilson for bringing this matter forth.

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

Toni Wilson, Winton Cemetery District, states the adoption of the Ordinance will bring sacredness back to the cemetery grounds.

Supervisor Crookham states the proposed ordinance will provide guidelines but the districts have discretion over hours of operation and when they are open.

Supervisor O'Banion states he received a fax from the Los Banos Cemetery District and they are in support of the Ordinance.

Upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board sets second reading and possible adoption of the Proposed Ordinance for October 2, 2007, at 10:00 a.m.

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

**10:00 A.M. SCHEDULED ITEM**  
**2007-09-25 PLANNING – PUBLIC HEARING**

The time and date previously set for a public hearing to consider General Plan Amendment Application No. GPA07-005 submitted by the County of Merced to amend the General Plan land use designation from Agricultural (Fresno County) to Agricultural (Merced County) and to change the zoning designation from Exclusive Agricultural (AE-20) (Fresno County) to General Agricultural (A-1) (Merced County) for 4,175 acres or 6.52 square miles of agricultural land on property bounded by the Merced County boundary line and the City of Dos Palos to the north and west, Merrill Avenue to the south and Custer Avenue to the east in the Dos Palos area.

Development Services Director Robert Lewis briefly reviews the Staff Report.

Planner Dave Gilbert reviews the powerpoint presentation for General Plan Amendment No. 07-005 and Zone Change Application No. 07-005.

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

The Chairman closes the public hearing.

Upon motion of Supervisor O'Banion, seconded by Supervisor Crookham, duly carried, based on Findings, the Board acknowledges the approved Negative Declaration for the minor boundary change between Fresno and Merced Counties and states its intended decision to approve General Plan Amendment Application No. GPA07-005 and Zone Change Application No. ZC07-005.

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



**10:00 A.M. SCHEDULED ITEM**  
**2007-09-25 PLANNING – PUBLIC HEARING**

The time and date previously set for a public hearing to consider General Plan Amendment Application No. GPA06-007, Zone Change Application No. ZC06-008 and Major Subdivision Application No. MAS 06-013 submitted by Stanley Morimoto to amend the General Plan land use designation from Cressey SUDP Commercial to Cressey SUDP Agricultural Residential and to change the zoning designation from General Commercial (C-2) to Agricultural Residential (A-4) for a 1.4 acre portion of a 27 acre parcel and a major subdivision to divide 27 acres into 11 one acre residential lots (“Meadow View”) with a 13.8 remainder parcel on property located on the northeast side of Santa Fe Drive and west of Cressey Way in Cressey.

Planner Dave Gilbert reviews the powerpoint presentation and recommendations for GPA06-007, ZC06-008 and MAS06-013.

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

John McCullough, Bedesen Cardoza Engineers, states he is present to respond to any questions the Board may have.

Merced County Farm Bureau Executive Director Diana Westmoreland-Pedrozo requests the Board have a Water Supply study prepared for this area.

The Chairman closes the public hearing.

Upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board adopts the Mitigated Negative Declaration prepared for General Plan Amendment Application No. GPA06-007, Zone Change Application ZC06-008 and Major Subdivision Application No. MAS06-013 and states its intended decision to approve General Plan Amendment Application No. GPA06-007, Zone Change Application No. ZC06-008 and Major Subdivision Application No. MAS06-013 based upon the following conditions and mitigation measures:

**Planning and Community Development Department**

1. The Final Map shall be recorded within two years of the Board of Supervisor’s approval date.
2. This project shall comply with the applicable Standard Conditions in Planning Commission Resolution No. 97-1.

**Public Works/Road Division**

3. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code, which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and to install underground or relocate utilities and irrigation facilities.
4. Release and relinquish all abutters’ rights of access to and from the entire Santa Fe Drive frontage of Lots 9, 10 and 11.

5. Provide a letter from MID accepting storm drainage water from this proposed development into their facilities prior to recording the final map.
6. Prior to recordation of the final map creating new County roads, the owner shall provide all documentation and pay all fees associated with forming a road maintenance zone of benefit in County Service Area Number One for extended road maintenance services which includes, but is not limited to, street sweeping.
7. The developer shall construct roadway improvements along the frontages of the parcel identified as Assessor's Parcel Number 140-060-025 surrounded by the proposed subdivision.
8. Prior to recordation of the final map, the owner shall provide all documentation and pay all fees associated with forming a sewage maintenance zone of benefit in County Service Area Number One for the purpose of monitoring onsite septic systems.
9. The developer shall provide improvements to the existing Cressey Park as determined by the Department of Public Works Parks and Recreation Division equivalent to the local recreational park land fee obligation.
10. Barriers along the southwest boundary of the subdivision determined necessary to reduce exterior noise exposure in compliance with Chapter IV of the General Plan shall be constructed with subdivision improvements. The owner shall provide all documentation and pay all fees associated with forming a maintenance zone of benefit in County Service Area Number One for sound wall graffiti abatement and landscaping, if required along the wall, prior to recordation of the final map.
11. Provide centerline striping for those new roads which intersect the existing peripheral streets.
12. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all new streets shall have been rough graded and compacted, prior to the issuance of any building permits. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such times as all improvements are completed.
13. Developer/Applicant is advised that he/she may be obligated to comply with Federal Regulations for storm water runoff issued by the U.S. EPA on November 16, 1990 (40 Code of Federal Regulations Parts 122, 123, and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916)341-5537, e-mail: [stormwater@swrcb.ca.gov](mailto:stormwater@swrcb.ca.gov), or visit their website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).
14. Developer/Applicant is advised that he/she may be obligated to comply with all applicable requirements of the San Joaquin Valley Air Pollution Control District. Regulation VII Record Keeping Forms and District Rules and Regulations may be obtained at [www.valleyair.org](http://www.valleyair.org) or by calling (209) 557-6400.

#### Environmental Health Division

15. A setback of 4 feet for every foot of slope shall be required for all sewage disposal systems and 100% replacement areas.
16. Percolation tests and soils profile analyses shall be conducted on at least 4 lots. This area may contain severe hardpan, which must be penetrated when installing the sewage disposal system.
17. All residential lots shall be required to install special sewage disposal systems that are capable of reducing the total nitrogen in the effluent to below 10 mg/l.

#### Merced Irrigation District (MID)

18. Ward Canal shall be placed in an appropriate sized underground pipeline to MID standards. MID is amenable to selling its 80-foot wide fee strip to the property owner and take back an appropriate width easement.
19. The property owner shall obtain a "Non-exclusive Driveway License Agreement" for all new and existing crossing over or under any MID facility, including driveways, utilities, and pipelines.
20. A signature block shall be provided for MID on all Improvement Plans associated with MID facilities.
21. No structures or trees shall be allowed within the MID easement.
22. If storm drainage is to be directed to any MID facility now or in the future, the property owner/applicant shall enter into a "Subdivision Drainage Agreement" or a "Deferred Fee Subdivision Drainage Agreement" with the Merced Irrigation District Drainage Improvement District No. 1 (MIDDID No. 1) paying all applicable fees.
23. The property owner shall enter into a "Construction Agreement" with MID for any work associated with MID facilities and pay all applicable fees.
24. All septic system leach fields shall be a minimum of 20 feet from the under grounded MID canal to protect the lateral from contamination and to protect the septic systems from incidental seepage from the MID canal.
25. Any dedicated streets that cross MID facilities shall require a "Joint Use Agreement" between MID and the County of Merced.

#### Mitigation Measures

26. To ensure there is no take of any burrowing owls that may move in to the site between the time the biological survey was completed and the initiation of ground breaking/construction activities a pre-construction survey shall be conducted to determine if burrowing owls are occupying the project site prior to such construction occurring on the site between February 1 and August 31. The survey shall take place no more than 30 days prior to the start of ground breaking/construction activities, and a copy of the survey shall be provided to the Merced County Planning and Community Development Department no less than 20 days prior to the proposed construction start date. The survey shall be conducted by a qualified biological consultant who, if burrowing owls are observed, shall propose mitigation in accordance with protocol approved by appropriate regulatory agencies to reduce potential impact on any burrowing owls on the project site to a less than significant level. The biologist shall base any temporal construction restrictions (i.e. setbacks around natal burrows) on the location of the nest to construction activities (MM).
27. To ensure that there is no take of any Swainson's hawk that may move into the site between the time the biological survey was completed and the initiation of ground breaking/construction activities a pre-construction survey within 0.25 miles of the project site shall be conducted by a qualified biological consultant to determine the presence of nesting Swainson's hawks prior to any construction occurring on the project site between March 1 and September 15. The survey shall take place no more than 30 days prior to the start of ground breaking/construction activities, and a copy of the survey shall be provided to the Merced County Planning and Community Development Department no less than 20 days prior to the proposed construction start date. Should a nest be discovered within 0.25 miles of the project site, temporal construction restrictions may be necessary to eliminate the potential for noise disturbance to the nesting hawks. The consultant shall base the necessity for restrictions on the location of the nest in relation to construction activities (MM).
28. Prior to the issuance of building permits, or commencement of grading related to the project, a qualified biological consultant approved by the County shall be retained by the

project proponent to identify any trees that could be used by nesting raptors and/or migratory birds. These trees shall be clearly marked on-site and the maximum possible number of these trees shall be retained during construction of the project. The retention effort may require the resign of the site plan. Should it be necessary to remove any trees that could be used by nesting raptors and/or migratory birds to accommodate development and site redesign is not feasible due to site characteristics, the trees shall be felled between September 15 and January 31, outside of the nesting season. The proposed tree retention or removal plan recommended by the biological consultant shall be reviewed and approved by the Merced County Planning and Community Development Department no less than 20 days prior to implementation. The project proponent shall state in writing to the Merced County Planning and Community Development Department as to why it is necessary to remove any identified tree. The Planning and Community Development Department shall determine the replacement ratio for any identified raptor (or migratory bird) nesting tree removed from the project site (MM).

29. Grading and/or construction activities shall not occur within 20 feet of the drip line of the elderberry shrubs within and adjacent to the project site. If grading and/or construction is to occur within 20 feet of the drip line of the elderberry shrubs the project applicant shall consult with the United States Fish and Wildlife Service to further assess the potential impacts to the valley elderberry longhorn beetle and determine the need for mitigation. Should the valley elderberry longhorn beetle be de-listed from its federal Threatened status prior to project construction this mitigation measure shall not apply to the project (MM).
30. Prior to the issuance of building permits or commencement of grading related to the project, the project proponent shall obtain Army Corps of Engineers (ACOE) verification on the jurisdictional status of potential Waters of the U.S., including wetlands, located on the project site, i.e. the Ward Canal. If the Ward Canal is verified to be such waters, the project proponent shall obtain all necessary ACOE permitting as well as any necessary California Department of Fish and Game and Regional Water Quality Control Board permitting, prior to any disturbance to the canal. (MM).
31. Prior to recordation of the final map for the project, the project proponent shall have an acoustical analysis prepared to determine potential noise impacts from railroad noise on affected parcels within the subdivision. The analysis shall propose remediation to reduce exterior noise levels on these lots to meet the standard contained in the Merced County General Plan. The acoustical analysis and proposed remediation shall be submitted to the Merced County Planning and Community Development Department for review and approval prior to commencement of work on the remediation facilities. The construction of a noise barrier shall be in accordance with Section 18.37.07 of Title 18, the Merced County Zoning Code (MM).

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

**10:00 A.M. SCHEDULED ITEM**

**2007-09-25 PLANNING – PUBLIC HEARING – ORDINANCE NOS. 1821 AND 1822**

The time and date previously set for a public hearing to consider 2007 Cycle III General Plan Amendment for:

General Plan Amendment No. 07-005 and Zone Change Application No. ZC07-005 submitted by Merced County, and

General Plan Amendment No. GPA 06-007, Zone Change Application No. ZC06-008 and Major Subdivision Application No. MAS06-013 submitted by Stanley Morimoto,

The Clerk reads the Proposed Ordinances by title only: An Ordinance Changing the Boundaries of and the Classification of Property Uses Within Zones Established by Merced County Code Title 18 Titled "Zoning".

Development Services Director Robert Lewis reviews the Staff Report.

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

The Chairman closes the public hearing.

Upon motion of Supervisor O'Banion, seconded by Supervisor Kelsey, duly carried, the Board waives further reading of the proposed ordinances and approves General Plan Amendment No. GPA07-005 and Zone Change Application No. ZC07-005; and General Plan Amendment No. GPA06-007, Zone Change Application No. ZC06-008 and Major Subdivision Application No. MAS06-013 and adopts Ordinance No. 1821 (ZC06-008) and Ordinance No. 1822 (ZC07-005) and adopts Resolution No. 2007-143.

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

**ACTION ITEM NO. 13**  
**2007-08-25 PUBLIC WORKS**

Upon motion of Supervisor Kelsey, seconded by Supervisor Crookham, duly carried, the Board makes the following Findings:

- a) That the site for the New Animal Control Facility is designated Commercial by the Castle Airport and Development Center (CAADC) Re-Use Plan,
- b) That the CAADC Re-Use Plan Commercial designation provides for: "retail commercial activities such as markets, shopping centers, apparel, home furnishing, general merchandise sales, restaurants and personal and professional service providers. Recreational and institutional uses are also considered appropriate and can be anticipated where the former military recreation center and ball fields are located,
- c) That the Animal Control Facility is a use consistent with the intensity and density of uses described in the CAADC Re-Use Plan Commercial Designation,
- d) That the environmental effectiveness of the Animal Control Facility have been evaluated against the "Pre-Closure Threshold" as described in the CAADC, Re-Use Plan EIR and these effects, combined with all other uses and activities at Castle, are within the Pre-Base Closure Threshold and therefore, this project is covered by the Castle Re-Use EIR,

Award the Construction Contract for the New Animal Control Facility at Castle Airport to J.L. Bray & Son, Inc. based on the low base bid for determination of low bidder in accordance with Public Contract Code Section 20103.8(a) in the amount of \$6,232,000 (Base Bid=\$5,413,000 + Six Additive Alternatives = \$819,000) and authorize Chairman to sign Contract No. 2007232.

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

**ACTION ITEM NO. 20**  
**2007-09-25 COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT**

The Clerk announces the Castle Airport name change is before the Board for consideration.

Commerce, Aviation and Economic Development Director John Fowler reviews the Staff Report advising professional consultants recommend Castle Airport name change to enhance the marketing efforts. He reviews the proposed names and states it is recommended this begin immediately for printing and other media changes.

The Chairman asks if there is anyone from the public wishing to speak.

Gemini Flight Support Vice President Jim Price states he and his partner, Stan Thurston, were notified of the proposed name change yesterday. He states they oppose changing the name of Castle Airport and feel the community should be involved in this decision.

Discussion is had concerning the proposed recommended name changes.

Following discussion, Supervisor Nelson moves, seconded by Supervisor O'Banion the Board accept the need for a Castle Airport name change, select Option Two-Central California Yosemite Airport – Brigadier General Frederick W. Castle Field as the new name and direct staff to publish the changes.

Supervisor Kelsey expresses concern on the decision being made today and speaks in favor of Merced County Yosemite Airport without Brigadier General Frederick W. Castle Field included at the end.

Supervisor Crookham states concern with businesses at Castle not being advised of the proposal.

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

Ayes: Nelson, O'Banion

Noes: Pedrozo, Crookham, Kelsey

Supervisor Kelsey moves, the Board approve Option No. 1-Merced County Yosemite Airport.

Motion dies for the lack of a second.

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

Supervisor Kelsey states public input is needed and suggests a poll be conducted on the County website.

Following discussion and upon motion of Supervisor O'Banion, seconded by Supervisor Kelsey, duly carried, the Board directs staff to obtain additional public input from tenants at Castle and return to the Board with recommendation on considerations of the airport name change.

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

## **INFORMATION ITEM NO. 22**

**2007-09-25 LOWER SAN JOAQUIN LEVEE DISTRICT**

Supervisor O'Banion states the Lower San Joaquin Levee District has issued a letter to the Fresno, Madera and Merced Counties concerning the status of the flood project levees that the District is responsible for operation/maintenance. He requests staff prepare and send a Letter of Support to the State to obtain assistance to improve the levees. The Board agrees with the request.

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