

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, JANUARY 15, 2013

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
HUBERT “HUB” WALSH, JR....DISTRICT 2
LINN DAVIS.....DISTRICT 3
CHAIRMAN DEIDRE F. KELSEY....DISTRICT 4
JERRY O’BANION.....DISTRICT 5

JAMES L. BROWN
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

Any material related to an item on this Agenda submitted to the Clerk after distribution of the Agenda packet is available for public inspection in the Office of the Clerk of the Board

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

HEARING ASSISTANCE DEVICES ARE AVAILABLE FOR PUBLIC USE
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.

**THE PUBLIC IS INVITED TO SPEAK ON ANY ITEM ON THE AGENDA-
TESTIMONY IS LIMITED TO FIVE MINUTES PER PERSON**

**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

**THE BOARD RECESSED AT 9:00 A.M. AND RECONVENED AT
10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN
ADVISED THERE WERE NO REPORTABLE ITEMS**

**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 8

NOMINATION OF CHAIRMAN AND VICE CHAIRMAN FOR THE YEAR 2013

**THE BOARD NOMINATES SUPERVISOR KELSEY AS 2013
CHAIRMAN AND SUPERVISOR O'BANION AS 2013 VICE-CHAIRMAN
AYES: ALL**

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 19)

PUBLIC WORKS - PUBLIC HEARING

To consider proposed Resolution on General Vacation of a portion of Bonner road located in the Planada area and accept public comments.

RECOMMENDATION: Adopt Resolution for the General Vacation of a portion of Bonner Road.

**CONTINUED TO JANUARY 29, 2013
REVIEW BOARD ORDER – SEE PAGE 8**

PUBLIC WORKS - PUBLIC HEARING

To consider Freeway Agreement for the State Route 99 from Merced City Limit 0.22 mile north of Bear Creek to Atwater City Limit at Shaffer Road and accept public comments.

RECOMMENDATION: Adopt resolution approving the Freeway Agreement for State Route 99 from Merced City Limit 0.22 mile north of Bear Creek to Atwater City Limit at Shaffer Road and approve and authorize Chairman to sign the Freeway agreement.

REVIEW BOARD ORDER – SEE PAGE 8 AND 9

REPORTS/BOARD DIRECTION

County Executive Officer, County Counsel, Board of Supervisors Members

CONSENT CALENDAR (Items # 1 - 19)

APPROVED AS RECOMMENDED

AYES: ALL

Public Works

1. Adopt Resolution for the Summary Vacation of Doug Road, located in the Planada area.
ADOPTED RESOLUTION NO. 2013-02
2. Approve Budget Transfer in the amount of \$1,200 for purchase of an uninterruptable power supply for Iris Garrett Juvenile Facility.

Planning

3. Approve and authorize the Chairman to sign Amendment Contract No. 2012088 with Vierra Family Hilmar Partnership LP for the consultant Environmental Planning Partners, Inc., to complete Tasks 4 and 5 for the Environmental Impact Report for the Vierra Dairy Farm Expansion project (CUP12-005).
4. Approve and authorize Chairman to sign Amendment Contract No. 2012089 with Environmental Planning Partners, Inc. to complete Tasks 4 and 5 as part of the Environmental Impact Report for the Vierra Dairy Farm Expansion Project (CUP12-005); and approve related budget transfer. (4/5 Vote Required)

Health

5. Approve and authorize Chairman to sign Renewal Contract No. 2007030 with California Department of Health Care Services and approve the acceptance of the Child Health and Disability Prevention (CHDP) Program, the Health Care Program for Children in Foster Care (HCPCFC), and the California Children's Services (CCS) program funding and terms and conditions for fiscal year 2012/2013; and approve related Budget Transfer. (4/5 Vote Required)
6. Approve Budget Transfer in the amount of \$8,400 to establish the fixed asset necessary to house emergency equipment at the local hospital.

Human Services Agency

7. Approve and authorize the Chairman to sign Renewal Contract No. 2007048 with the Mental Health Department for counseling services.

Ag Commissioner

8. Approve and authorize the Chairman to sign Renewal Contract No. 2004201 with California Department of Food and Agriculture for exotic insect pest detection; and adopt Resolution.

ADOPTED RESOLUTION 2013-03

9. Approve and authorize the Chairman to sign Amendment Contract No. 2000138 with California Department of Food and Agriculture for pest detection inspections and survey activities; and adopt Resolution.

ADOPTED RESOLUTION NO. 2013-04

Workforce Investment

10. Accept Modification eleven (11) to Contract No. 2009222 de-obligating \$91,183 of unexpended funds for the American Recovery and Reinvestment Act National Emergency Grant On-the-Job Training project.
11. Set Joint Meeting of the Board of Supervisors/Workforce Investment Board on February 5, 2013, for a presentation of the Workforce Investment Board's End of Year 2011/12 Report, and future goals.

Spring Fair

12. Approve Budget Transfer in the amount of \$98,812 to purchase qualifying recycled-content products for CalRecycle Grant awarded to Spring Fair with reimbursement to be received from CalRecycle after completion. (4/5 Vote Required)

District Attorney

13. Approve Budget Transfer in the amount of \$24,232 to purchase tablet computers to assist attorneys with workload. (4/5 Vote Required)

REVIEW BOARD ORDER – SEE PAGE 9

14. Approve Budget Transfer in the amount of \$110,479 for Central Valley Rural Crime Prevention. (4/5 Vote Required)

Library

15. Approve Budget Transfer in the amount of \$45,368 for Bookmobile expenses. (4/5 Vote Required)

REVIEW BOARD ORDER – SEE PAGE 9

Executive Office

16. Act on Claim for Damages received from Parmatma Khatra and Mid Valley Agricultural Services as recommended by Risk Management and County Counsel.
17. Authorize the Clerk to sign the Certification Statement for the composition of the Merced County Local Child Care and Development Planning Council as required by the California Dept. of Education.
18. Approve Budget Transfer in the amount of \$29,350 for duplicating and jury and witness expense due to increased activities and broader county representation on the Grand Jury. (4/5 Vote Required)
19. Approve travel request received from Human Services Agency and Commerce, Aviation, and Economic Development as recommended by Executive Office

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

20. Contract with Paige Ferrari, Damon A. Ferrari, and Margaret Hooks, Trustees, for acquisition of right-of-way for the Atwater-Merced Expressway Project; adopt Resolution accepting a Grant Deed for property from Paige Ferrari, Damon A. Ferrari, and Margaret Hooks, Trustees, needed for construction of the Atwater-Merced Expressway Project; and approve payment to Fidelity National Title Company for the agreed value of the property plus escrow and any other transaction fees.

AUTHORIZED CONTRACT NO. 2013003 AND ADOPTED RESOLUTION NO. 2013-05 AS RECOMMENDED AYES: ALL

21. Contract with John P. Ferrari, Jeani Ferrari, Gail Ferrari Martin, Luigi Ferrari Martin, Darrell Digiovanni, JoAnn Digiovanni, Cal Ferrari Martin, Trustees, (hereinafter collectively referred to as "Trustees"), for acquisition of right-of-way for the Atwater-Merced Expressway Project; adopt Resolution accepting a Grant Deed for property from said Trustees, needed for construction of the Atwater-Merced Expressway Project; adopt Resolution accepting a second Grant Deed for property from said Trustees; adopt Resolution accepting an Easement Deed for Ingress and Egress from said Trustees; and adopt Resolution accepting a Public Utility Easement Deed from said Trustees; and approve payment to Fidelity National Title Company for the agreed value of the property plus escrow and any other transaction fees.

AUTHORIZED CONTRACT NO. 2013004 AND ADOPTED RESOLUTION NOS. 2013-06 (Grant Deed), 2013-07 (Grant Deed), 2013-08 (Easement Deed), and 2013-09 (Public Utility Easement Deed) AS RECOMMENDED AYES: ALL

22. Contract with U.S. Department of Interior, Bureau of Reclamation, for Temporary Construction Permit in Advance of Easement for the replacement bridge project on Canal School Road over the Newman Wasteway.

APPROVED AS RECOMMENDED AYES: ALL
REVIEW BOARD ORDER – SEE PAGE 10

23. Contract with Congressman Costa for lease of Room 305 located at 2222 M Street, Merced; authorize remodel of Room 305; authorize Public Works, in conjunction with County Administrative Services, to issue purchase orders to Commercial Construction Company and to Core Business Interiors for the remodel of Room 305; and approve related Budget Transfer.

AUTHORIZED CONTRACT NO. 2013001 AS RECOMMENDED AYES: ALL
REVIEW BOARD ORDER – SEE PAGE 10

PLANNING

24. Contract with Borba Dairy Farms for the consultant Environmental Planning Partners, Inc. to prepare initial tasks and contingency for an Environmental Impact Report for the Borba Dairy Farms Expansion project (CUP12-007).

AUTHORIZED CONTRACT NO. 2013005 AS RECOMMENDED AYES: ALL

25. Contract with Environmental Planning Partners, Inc. to prepare tasks for an Environmental Impact Report for the Borba Dairy Farms Expansion project (CUP12-007); and approve

related Budget Transfer. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2013006 AS RECOMMENDED AYES: ALL

26. Contract with B-6 Dairy, LP for the consultant, Environmental Planning Partners, Inc. to prepare initial tasks and contingency for an Environmental Impact Report for the B-6 Dairy Expansion project (CUP12-008).

AUTHORIZED CONTRACT NO. 2013007 AS RECOMMENDED AYES: ALL

27. Contract with Environmental Planning Partners, Inc. to prepare tasks for an Environmental Impact Report for the B-6 Dairy Expansion project (CUP12-008); and approve related Budget Transfer. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2013008 AS RECOMMENDED AYES: ALL

COMMERCE, AVIATION, AND ECONOMIC DEVELOPMENT

28. Approve the Foreign-Trade Zone No. 226 Tariff Schedule Adjustments to Section V, Definition of Foreign-Trade Zone Terms and U.S. Customs Forms; Section VIII, Applications to the Foreign-Trade Zones Board; and Section IX, Fee Schedule; and adopt Resolution.

ADOPTED RESOLUTION NO. 2013-10 AS RECOMMENDED AYES: ALL

29. Adopt the Castle Airport 5-Year Airport Capital Improvement Plan Annual Update.

APPROVED AS RECOMMENDED AYES: ALL

REVIEW BOARD ORDER – SEE PAGE 10

HUMAN SERVICES AGENCY

30. Authorize the backfill of two HSA positions by adding two temporary full-time C-IV Program Analyst positions to budget unit 50012 for the duration of the LEADER Replacement Solution project; approve the amendments to the Position Allocation Resolutions; and approve related Budget Transfer. (4/5 Vote Required)

ADOPTED RESOLUTION NO. 2013-11 AS RECOMMENDED AYES: ALL

REVIEW BOARD ORDER – SEE PAGE 11

MENTAL HEALTH

31. Contract with Aegis Medical Systems, Inc. for drug Medi-Cal outpatient Narcotic Treatment Program to incorporate the terms and conditions of Contract No. 2011143 to increase the total contract amount from \$850,472 to \$1,010,472 in order to pay for all services provided from July 1, 2011 through June 30, 2012; and approve related Budget Transfer. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2013009 AS RECOMMENDED AYES: ALL

32. Contract with State Department of Alcohol and Drug Programs for Strategic Prevention Framework State Incentive Grant; and approve related Budget Transfer. (4/5 Vote Required)

AUTHORIZED CONTRACT NO. 2013010 AS RECOMMENDED AYES: ALL

DISTRICT ATTORNEY

33. Approve allocation of Extra Help Legal Assistant position to budget unit 20400 effective December 3, 2012; and adopt Resolution.

ADOPTED RESOLUTION NO. 2013-12 AS RECOMMENDED AYES: ALL

SHERIFF

34. Contract with California State Department of Boating and Waterways for Boating Safety and Enforcement Grant for the acceptance of up to \$80,000 of funding to purchase a replacement patrol boat and trailer for use in Merced County for safety and enforcement purposes; and void Merced County Contract No. 2012199.

AUTHORIZED CONTRACT NO. 2013002 AS RECOMMENDED AYES: ALL

BOARD OF SUPERVISORS

35. Authorize \$1,000 of District One's Special Board Project funds to be forwarded to Gateway Church to support the BeCourageous Benefit Concert.

APPROVED AS RECOMMENDED AYES: ALL

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

36. Fish and Game Commission re: Notice of proposed regulatory action relative to Amending Section 670; and Repealing Section 678, Title 14, California Code of Regulations, relating to the Practice of Falconry, which were published in the California Regulatory Notice Register on December 14, 2012.
37. Fish and Game Commission re: Notice of proposed regulatory action relative to subsection (d) of Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing was published in the California Regulatory Notice Register on December 28, 2012.
38. Fish and Game Commission re: Notice of proposed regulatory action relative to subsection (c) of Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing, was published in the California Regulatory Notice Register on December 28, 2012.
39. Merced County Mosquito Abatement District re: November 2012 Manager's Report.
40. Weaver Union School District re: Resolution Number 10-12-13 of the Board of Trustees of the Weaver Union School District certifying all proceedings in the November 6, 2012, general obligation bond election.

ADOPTED RESOLUTIONS IN MEMORY OF BELMA FRAGA BORRELLI, LAURA LaSALVIA, BERNICE BUSSING, ERNEST HEWLETT, MARCI STENBERG, AND LIONEL BONIN AND ADJOURNED THE MEETING UNTIL JANUARY 29, 2013, AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – JANUARY 15, 2013

10:00 A.M. SCHEDULED ITEM **2013-01-15 PUBLIC OPPORTUNITY**

Frank Delgado, 40-year Merced resident, speaks regarding the need for Board of Supervisors' evening meetings, the creation of two Administrative positions, C-IV Analysts positions, his experience with not being able to speak to employees at various County buildings, inconvenience of appointments at Probation and Public Defender, how taxpayer dollars are spent, promotions and his opinion of the "good ol" boys mentality of the County.

Kathy Hansen, Arts Council Board Member, speaks on Action Item 42 (December 18, 2012), and thanks the Board for their support.

Laura Phillips, Executive Director Merced County Arts Council, addresses the Board regarding financial challenges and states that she feels an urgency to get programs in all schools. Present: Kelsey, Pedrozo, Walsh, Davis, O'Banion

10:00 A.M. SCHEDULED ITEM **2013-01-15 PUBLIC WORKS – PUBLIC HEARING**

The time and date previously set for a public hearing to consider proposed Resolution on General Vacation of a portion of Bonner Road located in the Planada area as submitted by Public Works.

Public Works Director Dana Hertfelder reviews the staff report and informs the Board that the posting of the Public Road Vacation took place 12 days ago, but it must be posted two weeks before the Public Hearing. As a result, Mr. Hertfelder requests that the Board continue this Public Hearing.

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 O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board continues the Public Hearing to January 29, 2013, at 10:00 a.m. to allow for the required posting of two weeks prior to the Public Hearing.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

10:00 A.M. SCHEDULED ITEM **2013-01-15 PUBLIC WORKS – PUBLIC HEARING**

The time and date previously set for a public hearing to consider proposed Resolution approving the Freeway Agreement for State Route 99 from Merced City Limit 0.22 mile north of Bear Creek to Atwater City Limit at Shaffer Road as submitted by Public Works.

Public Works Director Dana Hertfelder reviews the staff report and informs the Board that this agreement would supersede the 1955 agreement and a portion of the 1957 agreement.

Upon motion of Supervisor Davis, seconded by Supervisor O'Banion, duly carried, the Board adopts Resolution No. 2013-01 approving Freeway Agreement with the State of California Department of Transportation for improvement of State Route 99 from Merced City Limit 0.22 mile north of Bear Creek to Atwater City Limit at Shaffer Road; and authorizes contract No. 2013011 with the California Department of Transportation for the Atwater Merced Expressway Project.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

CONSENT ITEM NO. 13

2013-01-15 DISTRICT ATTORNEY

The Clerk announces a Budget Transfer to purchase iPads is before the Board for consideration.

Supervisor Pedrozo asks if iPads are for all attorneys and if the funds are coming from the District Attorney budget.

District Attorney Administrative Services Director Jeannette Pacheco informs the Board that the iPads are for all attorneys, the funds are coming from the District Attorney Budget and Trust Fund, and no county dollars are being utilized.

Supervisor Davis states he is concerned with security issues.

District Attorney Administrative Services Director Jeannette Pacheco informs the Board that each user has an individual user number and there is security in place.

County Executive Officer James Brown informs the Board that the iPads were purchased as a result of the new Court Calendaring system, they allow for better attorney efficiency, and the iPads are locked.

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board authorizes the Budget Transfer in the amount of \$24,232 for the purchase of iPads with accessories and cable for use by all Deputy District Attorneys.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

CONSENT ITEM NO. 15

2013-01-15 LIBRARY

The Clerk announces a Budget Transfer for Bookmobile expenses is before the Board for consideration.

Supervisor Walsh requests information on the unveiling of the Bookmobile.

County Executive Officer James Brown states there has been recent communication and will make sure the Board is aware of the plan.

Upon motion of Supervisor O'Banion, seconded by Supervisor Pedrozo, duly carried, the Board authorizes the Budget Transfer in the amount of \$45,368 for Bookmobile expenses.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

ACTION ITEM NO. 22

2013-01-15 PUBLIC WORKS

The Clerk announces a contract with U.S. Department of Interior – Bureau of Reclamation is before the Board for consideration.

Public Works Director Dana Hertfelder states that the contract before the Board requires a minor change to the first sentence of page 10 to include CCID.

Upon motion of Supervisor Pedrozo, seconded by Supervisor O'Banion, duly carried, the Board authorizes the contract with the U.S. Department of Interior – Bureau of Reclamation for the Temporary Construction Permit in Advance of Easement; however, Public Works requested that no contract number be assigned at this time.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

ACTION ITEM NO. 23

2013-01-15 PUBLIC WORKS

The Clerk announces a contract with Congressman Jim Costa is before the Board for consideration.

Public Works Director Dana Hertfelder informs the Board that two contracts were submitted with this item; one contract was a Merced County Contract and the other contract was a U.S. House of Representatives District Office Lease. Mr. Hertfelder states that there is only a need for the District Office Lease.

Upon motion of Supervisor Pedrozo, seconded by Supervisor O'Banion, duly carried, the Board authorizes Contract Number 2013001 with Congressman Jim Costa for lease of Room 305 within the County Administration Building at 2222 M Street; approves the Budget Transfer in the amount of \$17,000 for remodel of Room 305; and approves the issuance of Purchase Orders to Commercial Construction Company and Core Business Interiors for the remodel of Room 305.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

ACTION ITEM NO. 29

2013-01-15 COMMERCE, AVIATION, AND ECONOMIC DEVELOPMENT

The Clerk announces the Castle Airport 5-Year Airport Capital Improvement Plan Annual Update is before the Board for consideration.

Supervisor Walsh requests information on this item.

Commerce, Aviation, and Economic Development Director Mark Hendrickson reviews the staff report, and informs the Board that every year the Federal Aviation Administration (FAA) requires airports to submit 5-year rotating projects. Mr. Hendrickson states that the projects must be part of the list to be eligible for funding.

Upon motion of Supervisor Davis, seconded by Supervisor Walsh, duly carried, the Board adopts the Castle Airport 5-Year Airport Capital Improvement Plan Annual Update and authorizes the Chairman to sign all Airport Capital Improvement Plan documents.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion

ACTION ITEM NO. 30

2013-01-15 HUMAN SERVICES AGENCY

The Clerk announces two C-IV Project Positions are before the Board for consideration.

County Executive Officer James Brown provides clarification on the two positions requested by the Human Services Agency. Mr. Brown states that the two positions are not promotional, and the positions will allow the backfill of the temporarily vacated positions. Mr. Brown further states that these positions will be filled with two current employees who will go to Los Angeles on a temporary assignment, the positions will be paid for by State and Federal dollars, and once the project is finished, these positions will no longer exist.

Upon motion of Supervisor O'Banion, seconded by Supervisor Walsh, duly carried, the Board authorizes the backfill of two Human Services Agency positions by adding two temporary full-time C-IV Program Analyst positions for the duration of the LEADER Replacement Solution project; adopts Resolution No. 2013-11 amending Position Allocation Resolution 06-120A; and approves the Budget Transfer in the amount of \$191,190 to cover salary, benefit, and travel expenses associated with these C-IV Project positions.

Ayes: Kelsey, Pedrozo, Walsh, Davis, O'Banion