

# SUMMARY ACTION MINUTES

## BOARD OF SUPERVISORS

Regular Meeting  
TUESDAY, MAY 20, 2014  
Closed Session – 8:30 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  
DEIDRE F. KELSEY....DISTRICT 4  
CHAIRMAN 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](http://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

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The Agenda is divided into three sections:

**CONSENT CALENDAR** – These matters include routine financial and administrative action and usually are approved by a single 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

8:30 A. M.

**THE PUBLIC IS INVITED TO SPEAK ON ANY ITEM ON THE AGENDA-  
TESTIMONY IS LIMITED TO FIVE MINUTES PER PERSON  
REVIEW BOARD ORDER – SEE PAGE - 11**

**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) Mark Hendrickson, Director-Community and Economic Development pursuant to Government Code Section 54956.8 as follows:

**Property:** Castle Property located at Castle Commerce Center Agency  
**Negotiator:** Mark Hendrickson, Community and Economic Development Director

**Under Negotiation:** Buildings 1333, 1335 and 1015 at Castle Commerce Center.

**CLOSED SESSION:** It is the intention of the Board to meet in Closed Session pursuant to Government Code Section 54957: PUBLIC EMPLOYEE APPOINTMENT, Title: Mental Health Director

**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; United Public Employees (UPE), Unit 3; Merced County Attorney Association (MCAA), Unit 7; Teamsters (Corrections), Unit 2; Merced County Law Enforcement Sergeants, Unit 30; Merced County Deputy Sheriff Association (DSA), Unit 10; Teamsters (Non-Safety Corrections), Unit 12; Merced County Public Safety Services Unit (MCPSSU), Unit 14; and Probation Supervising Employees, Unit 11. Agency Negotiator: Marci Barrera

**THE BOARD RECESSED AT 8:30 A.M. AND RECONVENED AT  
10:00 A.M. WITH ALL MEMBERS PRESENT AND THE CHAIRMAN  
ADVISED STAFF WAS GIVEN DIRECTION.**

**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 PAGES – 11 AND 12**

**APPROVAL OF CONSENT AGENDA CALENDAR** (Items #1 - 34)

**PUBLIC HEARINGS:**

**PUBLIC WORKS - PUBLIC HEARING - PROPOSED ORDINANCE**

To consider superseding Ordinance No. 1908 and amending Chapter 5.64 of the Merced County Code entitled "County Service Area Number One User Charge Rates for Zones of Benefit."

**RECOMMENDATION:** 1) Waive further reading of proposed Ordinance; 2) Open Public Hearing and receive comments; 3) Close Public Hearing; 4) Adopt Ordinance.

**REVIEW BOARD ORDER – SEE PAGE 12**

**COMMUNITY AND ECONOMIC DEVELOPMENT - PUBLIC HEARING**

To consider Major Modification No. MM13-012 to Conditional Use Permit No. 07-030 for Casper Noz, increasing the number of events and capacity of each event at an existing private recreational facility located one quarter mile south of Keyes Road and two miles east of Bledsoe Road in the Snelling area.

**RECOMMENDATION:** 1) Open Public Hearing and receive testimony; 2) Close Public Hearing; 3) Adopt the Initial Study and Mitigated Negative Declaration for Major Modification MM13-012 to Conditional Use Permit CUP07-030 in accordance with the CEQA Guidelines based on the CEQA findings in the Staff Reports; 4) Approve MM13-012 to CUP07-030 based on the Project Findings and subject to the Conditions of Approval and the CEQA Mitigation Measures, and approve the CEQA Mitigation Monitoring Reporting Program; and 5) Remove the project from the Merced County Agricultural Preserve.

**REVIEW BOARD ORDER – SEE PAGES 12 THROUGH 17**

**COMMUNITY AND ECONOMIC DEVELOPMENT - PUBLIC HEARING**

To consider the inclusion of four parcels (resulting from three Property Line Adjustments) located at: 1) East of Minturn Road adjacent to Chowchilla River, Chowchilla area; 2) West side of Kibby Road, 1,291 feet north of Highway 140, Merced area; and 3) East side of Bennett Road and South side of Eagle Field Road, Dos Palos area in the Agricultural Preserve

**RECOMMENDATION:** 1) Open the public hearing; 2) Close the public hearing; 3) Adopt the Resolution to amend the agricultural Preserve as per the requirements of the Land Conservation Act of 1965 (Williamson Act) Section 51200 et seq. of the California Government Code.

**REVIEW BOARD ORDER – SEE PAGE – SEE PAGE 17**

**COUNTY COUNSEL - PUBLIC HEARING - SECOND READING OF PROPOSED ORDINANCE**

Conduct second reading of proposed ordinance amending Ordinance No. 294 and 1149 and existing sections of Chapter 9.24, and establish Chapter 9.26 entitled "An Ordinance to Clarify Control of Pyrotechnics and Authorize and Control Safe and Sane Fireworks".

**RECOMMENDATION:** Waive further reading of proposed ordinance; 2) Open Public Hearing and receive comments; 3) Close Public Hearing; 4) Adopt Ordinance.

**REVIEW BOARD ORDER – SEE PAGES 17 AND 18**

**REPORTS/BOARD DIRECTION**

County Executive Officer, County Counsel, Board of Supervisors Members

CONSENT CALENDAR (Items # 1-34)

**APPROVED AS RECOMMENDED AYES: ALL**

Public Works

1. Adopt Resolution designating the intersection of Sultana Drive and Bell Drive as an all way stop intersection and authorize the installation of stop signs on the Bell Drive approaches to the intersection.

**ADOPTED RESOLUTION NO. 2014-47**

Human Services Agency

2. Approve and authorize Chairman to sign Renewal Contract No. 2011072 with the National Council on Crime and Delinquency (NCCD) for the SafeMeasures web-based internet reporting service.
3. Approve and authorize Chairman to sign Renewal Interdepartmental Agreement No. 2009296 with Merced County Library for Literacy training services.
4. Approve and authorize Chairman to sign Renewal Interdepartmental Agreement No. 2013100 with Department of Workforce Investment for Los Banos Plato Lab Services for Welfare to Work and Cal Learn clients.
5. Approve and authorize Chairman to sign Renewal Contract No. 2010078 with Merced Union High School District for Adult Education Services.
6. Approve Budget Transfer in the amount of \$119,264 to increase appropriations to cover increased needs in Aid for Adoptions due to an increase in caseloads. (4/5 Vote Required)
7. Authorize Budget Transfer in the amount of \$1,683,031 to increase appropriations to cover increased needs in the Foster Care program due to increased caseloads, grant awards, and Extended Foster Care services related to SB12. (4/5 Vote Required)

Mental Health

8. Approve and authorize Chairman to sign Amendment Contract No. 2011074 with Central Valley Regional Center to provide accessible and appropriate levels of service to individuals who are both developmentally disabled and mentally ill.
9. Approve and authorize Chairman to sign Amendment Contract No. 2013068 with Maxim Healthcare Services for temporary nursing services.

10. Approve and authorize Chairman to sign Amendment Contract No. 2010068 with Kings View Corporation to provide services of a Patients' Rights Advocate.
11. Approve and authorize Chairman to sign Renewal Contract No. 2009267 with the Human Services Agency/Area Agency on Aging for implementation of the Program to Encourage Active, Rewarding Lives for Seniors (PEARLS) as part of the Mental Health Services Act Prevention and Early Intervention.
12. Approve and authorize Chairman to sign Amendment Contract No. 2012115 with California Institute for Mental Health for integration and program evaluation consulting services.
13. Approve and authorize Chairman to sign Amendment Contract No. 2012014 with the U.S. Department of Housing and Urban Development Project Hope Westside, to increase the number served, to update outreach locations, and to revise the grant budgets to maximize personnel and operating expenses.
14. Approve and authorize Chairman to sign Amendment Contract No. 2012022 with Vicki Jones Transcription for the provision of medical transcription services.
15. Approve and authorize Chairman to sign Amendment Contract No. 2012114 with Guardco Security Services for security services at the inpatient unit and other facilities; and approve related Budget Transfer.

**PULLED – NO ACTION TAKEN**

16. Approve and authorize Chairman to sign Amendment Contract No. 2012116 with Castle Family Health Centers for placement of County clinical staff to provide mental health and alcohol and drug services at their facilities.
17. Approve and authorize Chairman to sign Amendment Contract No. 2012127 with Mission Linen Supply for linen and laundry services; and approve the related budget transfer.

**PULLED – NO ACTION TAKEN**

**Health**

18. PULLED
19. Approve and authorize Chairman to sign Amendment Contract No. 2007230 with California Department of Public Health - Tuberculosis Control Branch for TB Control and prevention services.
20. Approve and authorize Chairman to sign Renewal Contract No. 2006016 with California Department of Resources Recycling and Recovery for waste tire enforcement activities.
21. Approve budget transfer in the amount of \$11,572 to align line item accounts with allocations to meet the revised scope of work for Disaster Planning Assistance.

**Aq Commissioner**

22. Approve and authorize Chairman to sign Renewal Contract No. 2006109 with California Department of Food and Agriculture for conducting Petroleum Products Labeling and Advertising inspections; and adopt Resolution.
- ADOPTED RESOLUTION NO. 2014-48**
23. Approve and authorize Chairman to sign Renewal Contract No. 2004158 with USDA - APHIS – Wildlife Services 2014/2015 Annual Work Plan to continue providing predatory animal control service in Merced County.

24. Approve and authorize Chairman to sign Amendment Contract No. 2012078 with VIP Pet Care Services to perform low cost rabies vaccinations and microchip clinics at the Animal Services Facility.

#### Probation

25. Approve and authorize Chairman to sign Amendment Contract No. 2009101 with Codding Enterprises for a 5-year lease agreement for property located at 3191 M Street in Merced.
26. Approve budget transfer in the amount of \$172,000 to cover the cost of GPS services for the Day Reporting Center, and Leadership for Life program. (4/5 Vote Required)

#### **REVIEW BOARD ORDER – SEE PAGE 18**

27. Approve budget transfer in the amount of \$80,000 for portable radios used for communication with various law enforcement agencies while conducting field visits and operations. (4/5 Vote Required)

#### Fire

28. Approve continuation of the proclamation of the existence of a local emergency due to drought.

#### Sheriff

29. Approve budget transfer in the amount of \$9,000 to increase the fixed asset account for the three printers necessary to make the Livescan Machines fully operational for the City of Merced Police Department and the City of Gustine Police Department. (4/5 Vote Required)

#### Executive Office

30. Act on Claims for Damages received from Joseph Avila, and Anil Prashad (two claims) as recommended by Risk Management and County Counsel.

#### Board Recognition

31. Authorize Certificate of Recognition for Gertrude Laverne Fagundes in honor and celebration of her 85th Birthday.
32. Authorize Certificate of Recognition for Dr. Hanimireddy Lakireddy for receiving the Merced College Foundation President 2014 Medallion Award.
33. Authorize Certificate of Recognition for various individuals in honor of attaining 85 years of age and 50 years of residency in the County of Merced.
34. Authorize plaque for Kagome, Inc. in celebration of their 25th anniversary.

### REGULAR CALENDAR

#### BOARD ACTION

#### PUBLIC WORKS

35. 1) Approve the Main Administration Parking Lot Rehabilitation Project with an estimated project budget of \$875,000; 2) Approve the use of Tobacco Securitization funds for the parking lot reconstruction and the main entrance ADA upgrade projects; 3) authorize the

department of Public Works to utilize retained architects and engineers to proceed with plans and specifications; and 4) approve the related budget transfer. (4/5 Vote Required)

**APPROVED AS RECOMMENDED AYES: ALL**

36. Contract with C & S Engineers, Inc. for airport planning and design services; authorize the Director of Public Works to execute project supplement agreements and amendments to the Retainer Agreement.

**AUTHORIZED CONTRACT NO. 2014066 AS RECOMMENDED AYES: ALL**

37. 1) Authorize the Chairman of the Board of Supervisors to sign the contract for eMarkup Functionality in TRAKit Software with CRW Systems; 2) Authorize the Chairman of the Board of Supervisors to sign the contract for iPad iTRAKit Software with CRW Systems and, 3) Approve related Budget Transfer (4/5 Vote Required).

**AUTHORIZED CONTRACT NO. 2014067 (eMarkup) AND 2014068 (iTRAKit) AS RECOMMENDED AYES: ALL**

38. Contract with the Department of Transportation (CalTrans) for the Federal Apportionment Exchange and State Match Program agreement to exchange Federal Funds with Non-Federal State Highway Account Funds; and adopt Resolution.

**ADOPTED RESOLUTION NO. 2014-49 AND AUTHORIZED CONTRACT NO. 2014069 AS RECOMMENDED AYES: ALL**

39. Authorize Public Works to circulate a Request for Qualifications / Proposals (RFQ/P) for architectural firms to provide phased design services for the John Latoracca Correctional Center Expansion; and authorize the Department of Public Works to review and rank proposals and negotiate a contract to be submitted to the Board at a later date for approval and execution.

**APPROVED AS RECOMMENDED AYES: ALL**

40. PULLED

41. Contract with ICF Jones & Stokes, Inc. for CEQA documentation for the John Latoracca Correctional Center proposed expansion and remodeling.

**AUTHORIZED CONTRACT NO. 2014070 AS RECOMMENDED AYES: ALL**

#### HUMAN SERVICES AGENCY

42. Approve the Interdepartmental Agreement with Probation for adult probation services; and approve related budget transfer.

**AUTHORIZED CONTRACT NO. 2014071 AS RECOMMENDED AYES: ALL**

43. Approve the Interdepartmental Agreement with Public Health for the provision of Clinic services to CalWorks clients; and approve related budget transfer.

**AUTHORIZED CONTRACT NO. 2014072 AS RECOMMENDED AYES: ALL**

44. Contract with Runaway Girl, FPC to provide training and community awareness events related to Sexual Exploitation Response.

**AUTHORIZED CONTRACT NO. 2014073 AS RECOMMENDED AYES: ALL**

#### MENTAL HEALTH

45. Contract with Dr. Cynthia Hunt, M.D., Psychiatrist, for the provision of child psychiatric services; and return to the Board for further action once the vacant Staff Psychiatrist position is filled.

**AUTHORIZED CONTRACT NO. 2014074 AS RECOMMENDED AYES: ALL**

46. Contract with California Department of Health Care Services for the zero dollar performance contract; and adopt Resolution.  
**ADOPTED RESOLUTION NO. 2014-50 AND AUTHORIZED CONTRACT NO. 2014064 AS RECOMMENDED AYES: ALL**
47. Contract with Shemoil's Investments Developments for lease of office space located at 3090 M Street in Merced for the Mental Health Alcohol and Drug Services office.  
**AUTHORIZED CONTRACT NO. 2014065 AS RECOMMENDED AYES: ALL**
48. Approve departmental personnel actions in Budget Unit 41506 to add 1 Program Assistant and 2 Mental Health Clinician I/II previously identified in the MHSA Program Update; and adopt Resolution.  
**ADOPTED RESOLUTION NO. 2014-51 AS RECOMMENDED AYES: ALL**

HEALTH

49. PULLED
50. 1) Approve submission of the Solid Waste Local Enforcement Agency grant application for FY 2014-15 to support local solid waste enforcement programs; 2) authorize the Public Health Director or designee to submit the online grant application and any administrative requests necessary to secure the grant funds and implementation of the project when approved; 3) adopt Resolution authorizing submission of grant application to the California Department of Resources Recycling and Recovery (CalRecycle); and 4) direct the Department of Public Health to return to the Board if funding awarded.  
**ADOPTED RESOLUTION NO. 2014-52 AS RECOMMENDED AYES: ALL**
51. Approve the change to the Merced County Public Health Los Banos Clinic hours to Mondays 9:30 a.m. to 1:00 p.m. and Wednesday 10:00 a.m. to 1:00 p.m. and 2:00 p.m. to 5:00 p.m.  
**APPROVED AS RECOMMENDED AYES: ALL**

COMMUNITY AND ECONOMIC DEVELOPMENT

52. Approve sale of land to APG solar for \$60,000 and authorize the Chairman to execute all necessary documents to effectuate the sale and transfer of 2.40 acres of land within Castle Commerce Center to APG Solar.  
**AUTHORIZED CONTRACT NO. 2014076 AS RECOMMENDED AYES: ALL**  
**REVIEW BOARD ORDER – SEE PAGE 18**

PROBATION

53. Contract with Behavioral Interventions to operate a jail re-entry program inside the John Latorraca Correctional Facility.  
**AUTHORIZED CONTRACT NO. 2014075 AS RECOMMENDED AYES: ALL**
54. Appoint Ana Pagan, Director Human Services Agency, to the Executive Committee of the Community Corrections Partnership, hereby replacing the Mental Health Director.  
**APPROVED AS RECOMMENDED AYES: ALL**

SHERIFF

55. Authorize the Sheriff to sign all necessary documents to accept one United States Military Surplus Caiman Mine Resistant Ambush Protected (MRAP) heavily armored vehicle from



the California Office of Emergency Services through the 1033 Program.

**APPROVED AS RECOMMENDED      AYES: ALL**

**TREASURER**

56. Accept the Quarterly Investment Report for the period of January 1, 2014 to March 31, 2014.

**APPROVED AS RECOMMENDED      AYES: ALL**

**BOARD OF SUPERVISORS**

57. Authorize \$3,500 of District Four's Special Board Project Funds to be forwarded to the American Legion Post #240 for one half of the cost of purchasing a new commercial stove for the Gustine Veterans Hall; and approve related budget transfer.

**APPROVED AS RECOMMENDED      AYES: ALL**

58. Authorize \$1,500 of District One's Special Board Project Funds to be forwarded to Le Grand Community Garden Club to assist with the cost to install a water meter at the community garden; and approve related budget transfer.

**APPROVED AS RECOMMENDED      AYES: ALL**

59. Authorize \$1,500 of District Two's Special Board Project Funds to be utilized to pay for lanyard repairs and painting of the Courthouse Museum flagpole.

**APPROVED AS RECOMMENDED      AYES: ALL**

60. Direct the Department of Public Health, Division of Environmental Health to develop a cost sharing agreement with Merced Irrigation District in the amount of \$100,000 to further the development of the Merced Integrated Water Resources Model.

**APPROVED AS RECOMMENDED      AYES: ALL**

**REVIEW BOARD ORDER – SEE PAGES 19 AND 20**

61. PULLED

**BOARD APPOINTMENTS**

62. Reappoint Keng Ger Cha as a member of the Mental Health Advisory Board, representing District Three until June 30, 2016.

**APPROVED AS RECOMMENDED      AYES: ALL**

**BOARD INFORMATION & POSSIBLE ACTION**

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

63. Community and Economic Development Department re: Community Development Block Grant (CDBG) Standard Agreement No. 13-CDBG-8964 signed by Chairman and forwarded to State of California Housing and Community Development on January 14, 2014.

**CONTRACT NO. 2013058A**

64. California Department of Fish and Game re: Notice of proposed regulatory action relative to Sections 300 and 708, Title 14, California Code of Regulations, relating to upland game bird, which was published in the California Regulatory Notice Register on May 9, 2014.

65. State Board of Equalization re: County Assessment Appeals filing period for 2014.

66. Merced Irrigation District re: Merced River Hydroelectric Project FERC Project No. 2179-043 Transmittal of Amended License Application.

**THE BOARD RECESSED TO MEET AS AN IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY AND RECONVENED TO MEET AS A BOARD OF SUPERVISORS**

**THE BOARD ADOPTED A RESOLUTION IN MEMORY OF PHILLIP RASEY AND ADJOURNED THE MEETING UNTIL TUESDAY, JUNE 3, 2014 AT 10:00 A.M.**

## **BOARD ORDERS – SUMMARY ACTION MINUTES – MAY 20, 2014**

### **8:30 A.M. CLOSED SESSION** **2014-05-20 PUBLIC OPPORTUNITY**

Concerned citizen inquires if there is any allocation of money involved in Closed Session and states she wants to make sure public has knowledge of any money transferring or expenditures. She questions whether there will be a report of Closed Session.

Chairman O'Banion informs concerned citizen that it is mandatory for any action taken in Closed Session to be reported.

### **10:00 A.M. SCHEDULED ITEM** **2014-05-20 PUBLIC OPPORTUNITY**

Collette Alvernaz, Livingston resident, offers prayer to open today's meeting.

Allen Spencer, Merced resident, addresses the Board regarding the Sheriff's document regarding Mr. Spencer's personal life which was reported to the Board. Mr. Spencer demands personal and private person be in the room.

Susana Saldana, Merced resident, speaks in support of a raise for the In-Home Supportive Services workers.

Director of Human Services Agency Ana Pagan introduces Alexandra Pierce as a new Deputy Director of Adult Services.

Victoria Castillo, Merced resident, addresses the Board concerning an investigation of her by the Sheriff and released to the media and provided to the Board. She addresses the Board regarding her husband Richard Yanez Castillo who is incarcerated at Merced County jail and states her husband has a bullet wound which is not being treated. She states that she feels intimidated to appear at the Board meeting.

Jesse Ornelas, National Brown Berets and Families United Campaign to End Police Terror, states that what Sheriff Cavallero did to Victoria Castillo and two others is an act of a coward and requests immediate dismissal or resignation of Sheriff Cavallero on the grounds that he is not respecting citizens' first amendment rights.

Female who does not wish to identify herself for fear of retribution states she is a resident of Merced and a full-time employee of UC Merced. She states she is outraged about what she read in the Merced Sun-Star regarding the probe of three private citizens. She states that what she finds infuriating is the tax payer dollars were used by Sheriff Cavallero to conduct investigations. She further states that she and others believe the investigations were done as retaliation against those who challenge his department. She requests that Sheriff Cavallero step down from his position.

Christina Retchigan, Sacramento resident and Director of California Campaign to End Police Terrorism-Justice for Ernest Duenas Jr., states that her cousin, Ernest Duenas Jr., was murdered by a Manteca police officer and that was the catalyst for her work as community activist.

She states that in the last two years Merced residents have contacted her for help with what is happening in Merced with regard to police brutality, corruption, collusion, violation of constitutional rights, mistreatment of inmates, and elected officials who are part of the problem. Ms. Retchigan speaks about the background checks conducted by the Sheriff and states that she will be conducting background checks on all Board members. She demands that the Sheriff detail every step taken to obtain information gathered for the background checks and to provide the information to the citizens who were offended.

Concerned citizen speaks regarding unethical conduct, review of Merced County Codes, and the Penal Codes in Merced County Codes, especially when it comes to the financial interests. She urges the Board to seek County Counsel advice. She also speaks regarding Rosenberg Rules of Order, Penal Code section 92, Brown Act Violations, and obstruction of justice.

Salvador Sandoval, Merced physician, encourages the Board to make sure that Victoria Castillo's husband is getting adequate medical care in the County facility. Dr. Sandoval states that he supports a raise for UDW workers because they keep costs down for the County.  
Present: O'Banion, Pedrozo, Walsh, Davis, Kelsey

**10:00 A.M. SCHEDULED ITEM**  
**2014-05-20 PUBLIC WORKS – PUBLIC HEARING – ORDINANCE NO. 1920**

The time and date previously set for a public hearing to consider proposed Ordinance to amend Chapter 5.64 of the Merced County Code entitled "County Service Area Number One user Charge Rates for Zones of Benefit" as submitted by County Counsel.

Public Works Director Dana Hertfelder provides a staff report and states that the rates are the same as last year with no changes.

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 Davis, seconded by Supervisor Walsh, duly carried, the Board waives further reading of the proposed Ordinance and adopts Ordinance No. 1920 entitled "User Charge Rates for Zones of Benefit" which establish County Service Area Number One User Charge Rates for Fiscal Year 2014/2015.  
Ayes: O'Banion, Pedrozo, Walsh, Davis, Kelsey

**10:00 A.M. SCHEDULED ITEM**  
**2014-05-20 COMMUNITY AND ECONOMIC DEVELOPMENT – PUBLIC HEARING**

The time and date previously set for a public hearing to consider Major Modification No. MM13-012 to Conditional Use Permit No. 07-030 for Casper Noz as submitted by Community and Economic Development.

Community and Economic Development Director Mark Hendrickson provides a staff report and states that the original CUP was approved by the Planning Commission in 2008 to allow a private outdoor recreational facility on a 4 acre portion of a 19.7 acre parcel. He states that the facility historically has been rented for weddings, dinners, festivals, etc., with events taking place primarily on weekends.

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

Earlier in the meeting, Mrs. Burroughs speaks in favor of this item.

Supervisor Davis asks staff to address road issues and traffic approach guidelines.

Planner III Jeffrey Fugelsang states the Department of Public Works on June 12, 2013, reviewed the project and determined that only the transportation mitigation measure would be required, and they did not identify any concerns regarding the line of sight on Keyes Road.

Director of Public Works, Dana Hertfelder addresses the traffic approach guidelines and states that there are very specific requirements for encroachment permits, and the applicant will be required to meet those requirements as well as any sight distance issues there might be.

Supervisor Walsh asks if there is a road mitigation that this expansion needs to pay as a result of additional vehicle traffic.

Director of Public Works, Dana Hertfelder states that staff decided that only one mitigation measure needed to be met.

Supervisor Kelsey questions if there is a restriction on noise from this property to neighboring properties, and suggests that the condition regarding the hours of operation be modified to change it from 10 p.m. to 11 p.m.

Planner III Jeffrey Fugelsang states that the County Code requires that background noise over a certain dba after 10:00 p.m. is not allowed. He states that it is up to the Board to modify the noise restriction.

Mr. Noz states that he would like to see a later time restriction because many parties start at 9 p.m. He discusses the background noise caused by farmers who run wells while irrigating. He feels that rules are imposed on him and would like to do business without fines imposed on him.

The Chairman closes the public hearing.

Upon motion of Supervisor Kelsey, seconded by Supervisor Walsh, duly carried, the Board adopts the Initial Study and Mitigated Negative Declaration for Major Modification MM13-012 to Conditional Use Permit CUP07-030, with the hours of operation modified from 10 p.m. to 11 p.m., in accordance with the CEQA Guidelines based on the CEQA findings in the Staff Reports; approves MM13-012 to CUP07-030 based on the Project Findings and subject to the Conditions of Approval and the CEQA Mitigation Measures, and approve the CEQA Mitigation Monitoring Reporting Program; and removes the project from the Merced County Agricultural Preserve.

### **CEQA Findings**

1. The Mitigated Negative Declaration was prepared and circulated in accordance with Sections 15070 through 15073 of the CEQA Guidelines and reflects the independent judgment of the County.

2. Based on the Initial Study and comments received the proposed Major Modification will not have a significant effect on the environment with incorporation of the two identified mitigation measures found in the Mitigated Negative Declaration.

### **Project Findings**

1. Major Modification No. MM13-012 to Conditional Use Permit No. CUP07-030 proposes to increase the number of events from six (6) to 48 per year and increase the capacity of each event from 200 to 250 occupants at an existing private recreational facility.
2. The property is located one-quarter mile south of Keyes Road and two miles east of Bledsoe Road in the Snelling area.
3. The project site is designated Agricultural land use and zoned A-2 (Exclusive Agricultural).
4. The existing use is not compatible with the Agricultural Preserve. Therefore, it is being removed. Additionally, there is no cultivated agricultural land on the property. Therefore, no impacts to agriculture would result from project approval.
5. The proposal is consistent with the land use designation and zoning of the property.
6. With the implementation of CEQA Mitigation Measures and Conditions of Approval, the project will not significantly impact the environment.
7. As conditioned, the project is compatible with adjacent uses, properties and neighborhoods.
8. The project is in compliance with all development standards in the A-2 zone.
9. The project would not be a nuisance or detrimental to the public health, safety and general welfare.
10. The project was referred to the following agencies for review: US Fish and Wildlife Service, US Army Corps of Engineers, California Department of Fish and Wildlife, Department of Conservation, Air Resources Board, Public Utilities Commission, Resources Agency, Department of Water Resources, Regional Water Quality Control Board, Caltrans, Department of Parks and Recreation, Native American Heritage Commission, Turlock Irrigation District, San Joaquin Valley Air Pollution Control District.
11. The IS/MND and public hearing were adequately noticed and advertised.

### **Conditions of Approval**

#### Community and Economic Development Department

1. Major Modification No. MM13-012 to Conditional Use Permit No. CUP07-030 is granted to increase the number of events from six (6) to 48 per year, with no seasonal restrictions, and increase the capacity of each event from 200 to 250 occupants at an existing private recreational facility, in accordance with the approved Plot Plan and Operational Statement.
2. Minor Modifications to this permit may be approved by the Community and Economic Development Department Director upon submittal of an acceptable application.
3. The applicant shall record a Right-to-Farm Certificate upon project approval.

4. All conditions of approval for Conditional Use Permit No. CUP07-030, with the exceptions of the ones modified by this project, shall remain in effect.

County Counsel

5. **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

Casper Noz has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of Casper Noz.

Casper Noz's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of Casper Noz, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. Casper Noz will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following Project approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Department of Public Health/ Environmental Health

6. Domestic Water

- 25 or more persons shall not be at the facility on 60 or more days per year.
- If any plumbing fixture providing water is available to attendees, the water must be demonstrated to be potable analyses by a qualified laboratory. Samples shall be collected by a qualified person. Samples shall be collected quarterly for bacteria, annually for nitrate, and every three years for nitrite. Reports of analyses shall be provided to the Planning Department as soon as available.

7. On-Site Septic Systems

- On-site septic systems (tank and leach lines) are required for permanent restrooms.
- Pit toilets or toilets with holding tanks are not allowed.
- All septic tanks and sumps shall be protected from flooding and rated for truck traffic or protected from all traffic. All leach fields shall be unpaved, contain no structures, and be protected from flooding and compaction (vehicular traffic, parking, etc.). The leach line replacement area (non-residential: 300% of required leach field) is to be unpaved and contain no structures.

#### 8. Portable Restrooms

- Portable restrooms, in adequate numbers, shall be available for sponsors and attendees to use during the entire event, including preparation and cleanup.
- Portable restrooms shall not be on the property sooner than three days prior to the event and shall be removed from the property not later than three days after the event.
- Portable restrooms shall have a self-closing door – tightly fitted to the door frame when closed. All other openings shall be screened to reduce fly access.
- Portable restrooms shall be accompanied with an adequate number of handwashing stations, provided with clean, running water (pumped or gravity fed is allowed), hand soap, and paper towels. Handwashing wastewater shall drain to a sewer, on-site septic system or appropriate holding tank. If a separate handwashing wastewater tank is used, the waste water tank capacity should exceed the capacity of the freshwater tank.
- Portable restrooms and any associated handwashing stations shall be lighted between sunset and sunrise if the portable restrooms are available for use during that time.
- Fresh water in the handwashing station tank shall have a free-chlorine concentration of 1 to 10 ppm at the time of filling or refilling the tank. Adding 1 teaspoon of 5% household bleach to every 5 gallons of water will provide the required concentration.

#### 9. Food Facilities

- The applicant shall provide no food to event attendees, nor shall he perform any food preparation for attendees, without first obtaining the appropriate food facility permit(s) from MCDEH.

#### Department of Public Works/ Building and Safety

10. Restrooms shall be ADA accessible and two water fountains shall be provided.

#### CEQA Mitigation Measures

11. The following is a comprehensive list of CEQA Mitigation Measures applicable to the project and are contained in the Mitigation Monitoring and Reporting Program (MMRP). These measures are incorporated by reference into the



Conditions of Approval. The applicant shall be responsible to comply with all Mitigation Measures as referenced herein:

Air Quality

AIR -1: Dust control measures during activities.

Transportation

TRANS-1: Provide adequate free parking and a paved driveway approach.

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

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

**2014-05-20 COMMUNITY AND ECONOMIC DEVELOPMENT – PUBLIC HEARING**

The time and date previously set for a public hearing to consider the inclusion of four parcels (resulting from three property Line Adjustments) in the Agricultural Preserve as submitted by Community and Economic Development.

Community and Economic Development Director Mark Hendrickson provides a staff report and states that the properties are not under contract nor are there any requests to place them under Williamson Act contract with this item today.

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 Walsh, seconded by Supervisor Davis, duly carried, the Board adopts Resolution No. 2014-46 to amend the Agricultural Preserve as per the requirements of the Land Conservation Act of 1965 (Williamson Act) Section 51200 et seq. of the California Government Code, to include four parcels (resulting from three Property Line Adjustments) located at: 1) East of Minturn Road adjacent to Chowchilla River, Chowchilla area; 2) West side of Kibby Road, 1,291 feet north of Highway 140, Merced area; and 3) East side of Bennett Road and South side of Eagle Field Road, Dos Palos area.

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

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

**2014-05-20 COUNTY COUNSEL – PUBLIC HEARING – SECOND READING - ORDINANCE NO.1921**

The time and date previously set for a public hearing to consider the second reading of a proposed Ordinance entitled "An Ordinance to Clarify Control of Pyrotechnics and Authorize and Control Safe and Sane Fireworks" as submitted by County Counsel.

County Counsel James Fincher provides a staff report and states that this Ordinance would make permanent the sale of Safe and Sane fireworks in the County with non-profit agencies, with the one exception of the stand in Dos Palos which has been in existence for many years prior to recent annexation of their property into Merced County.

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 Walsh, duly carried, the Board waives further reading of the proposed Ordinance and adopts Ordinance No. 1921 entitled "An Ordinance to Clarify Control of Pyrotechnics and Authorize and Control Safe and Sane Fireworks" amending Ordinance Nos. 294, 1149 and existing sections of Chapter 9.24 and establish Chapter 9.26.

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

**CONSENT ITEM NO. 26**

**2014-05-20 PROBATION**

The Clerk announces budget transfer for GPS services for Day Reporting Center and Leadership for Life Program is before the Board for consideration.

Concerned citizen states she does not understand why there is a transfer of \$172,000 for GPS services and asks what this covers.

Chief Probation Officer Scott Ball states that the Day Reporting Center contract is \$12,000 more per month than was previously budgeted because this contract was done in mid-year which resulted in an \$80,000 impact which necessitated the transfer of funds. Mr. Ball states that with regard to Leadership for Life, GPS is \$90,000 more than anticipated due to Probation Officers utilizing alternative sanctions instead of sanctions in jail.

Supervisor Kelsey requests that Mr. Ball explain other diversion programs.

Chief Probation Officer Scott Ball provides information to the Board regarding the Day Reporting Center has 40 clients, Leadership for Life, and GPS.

Upon motion of Supervisor Kelsey, seconded by Supervisor Walsh, duly carried, the Board approves budget transfer in the amount of \$172,000 to cover the cost of GPS services for the Day Report Center and Leadership for Life Program.

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

**ACTION ITEM NO. 52**

**2014-05-20 COMMUNITY AND ECONOMIC DEVELOPMENT**

The Clerk announces sale and transfer of 2.40 acres of land within Castle Commerce Center to APG Solar is before the Board for consideration.

Community and Economic Development Director Mark Hendrickson provides the Board with a brief staff report and recommends that the Board approve the sale to APG Solar.

Brent Joerner, Chief Executive Officer of APG Solar, states that he started APG Solar in 2005 with his wife and partner, he promotes American products, and employs 17 families.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Davis, duly carried, the Board approves the sale of land to APG Solar for \$60,000 and authorizes the Board Chair to execute all necessary documents to effectuate the sale and transfer of 2.40 acres of land within Castle Commerce Center to APG Solar.

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

**ACTION ITEM NO. 60**

**2014-05-20 COUNTY EXECUTIVE OFFICE**

The Clerk announces Merced Integrated Water Resources Model Funding is before the Board for consideration.

Environmental Health Director Ron Rowe provides Board with Drought and Integrated Regional Water Management Activities Update powerpoint presentation covering the following: Agenda, State Water Updates, IRWMP Consistency with State Standards, The Merced IRWM program Builds on a Long History of Cooperative Planning & Productivity, Merced IRWMP Accomplishments, Water Resources Data and Analyses, Goals for the Merced IWR Model, Numerical Model Platform, Modeling Objectives, Model Coverage Area, Participants, Financial Contributions, and Model Implementation Timeline, Merced Integrated Regional Water Management Planning Benefits, Next Steps – Local Level, and Next Steps – State Level. Mr. Rowe submits a copy of the powerpoint for the record.

Dr. Tagabi speaks regarding surface and subsurface water information data, water model development process, MAGPI, platform to be used per Department of Water Resources (DWR), and model geographic boundaries.

Collette Alvernaz, Livingston resident, speaks regarding the draft proposal, arsenic in Livingston well #13 and well #16, governance structure, water management plans, and LAFCo 2012 approval of annexation when there is not enough water.

Mary Ann Reynolds, Merced resident, asks if the Integrated Water Resources Model address Merced County's lack of a groundwater export Ordinance.

Environmental Health Director Ron Rowe responds and states that currently there is no Ordinance regarding water exportation. He states that the hope is that through modeling efforts a scientific database will be built to use in developing policy.

Rosemary Burroughs, Denair resident, speaks regarding the Reclamation Board. She states she is concerned that the stakeholders do not have a voice in working as an advisory and requests that local farmers be included as part of the stakeholders.

Dr. Tagabi states there are two groups overseeing the development of the model; one is the MAGPI group which has representatives from the various water agencies, and there is also the Technical Advisory Group which will be looking at the day-to-day development of the data information, interpretation and analysis.

Rod Webster, Merced resident, speaks regarding the lack of a local Ordinance for groundwater control and suggests a moratorium until data is obtained.

Chairman O'Banion states that this item is not about water transfer.

Doug Wells, Livingston farmer, speaks regarding models, science for good models, underground aquifers, and the need to focus on the science.

Stan Morimoto, Cressey resident, urges the County to work with farmers in order to find ways to do a better job of utilizing water, making sure water is not sold outside of the District, and finding more effective ways of using water.

Anthony Raggio, El Nido resident, comments on recharge and states there needs to be more recharges.

Dr. Tagabi responds and states that all projects are listed on the website.

Following lengthy discussion and upon motion of Supervisor Pedrozo, seconded by Supervisor Kelsey, duly carried, the Board directs the Department of Public Health, Division of Environmental Health, to develop a cost sharing agreement with Merced Irrigation District in the amount of \$100,000 to further the development of the Merced Integrated Water Resources Model to include governance structure to include representation in the form of appointments made by the Board of Supervisors.

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