

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, MAY 11, 2010

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
MICHAEL G. NELSON.....DISTRICT 3
DEIDRE F. KELSEY....DISTRICT 4
CHAIRMAN JERRY O’BANION.....DISTRICT 5
Lydia A. Beiswanger, Chief Clerk

LARRY T. COMBS
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 the 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 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-Commerce, Aviation and Economic Development pursuant to Government Code Section 54956.8 as follows: Castle Airport, Building 1350

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL -

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

CLOSED SESSION - 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): San Joaquin Raptor Rescue Center; Protect Our Water v. County of Merced; Merced County Planning Commission and Does 1 to 20, Ingomar Packing CO. LLC; Tim Durham; SPG Solar, Inc.; Dan Berger and Does 21-40, Superior Court of the County of Merced, Case No. CV000787

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - INITIATION

OF LITIGATION: It is the intention of the Board to meet in Closed Session concerning Initiation of Litigation pursuant to Government Code Section 54956.9(c): One Case

REVIEW BOARD ORDER – SEE PAGE 12

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 12 AND 13

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 38)

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

10:00 A. M.

MENTAL HEALTH - PUBLIC HEARING, PROPOSED ORDINANCE AND POSSIBLE ADOPTION

To consider Proposed Ordinance entitled: An Ordinance changing Fees Charged for Mental Health Services (Supersedes Ordinance No. 1868 and amends County Code Chapter 9.48)

RECOMMENDATION: Waive further reading of proposed ordinance and adopt Ordinance.

REVIEW BOARD ORDER – SEE PAGE 13

BOARD OF SUPERVISORS - PUBLIC HEARING - PROPOSED ORDINANCE AND POSSIBLE ADOPTION

To consider Proposed Ordinance entitled: An Ordinance adopting Fees for providing specific services in the Board of Supervisors Office (Repeals Ordinance No. 1827 and 1330)

RECOMMENDATION: Waive further reading of proposed ordinance and adopt Ordinance

REVIEW BOARD ORDER – SEE PAGES 13 AND 14

PLANNING - PUBLIC HEARING

To consider an Appeal of the Planning Commission determination and approval of Minor Subdivision Application No. MS09-014 due to alleged violations of the Ralph M. Brown Act and CEQA filed by San Joaquin Raptor Rescue Center/Protect Our Water. Application filed by Pacheco LLC to divide 6.17 acres into four parcels of Parcel 1=1.50 acres, Parcel 2=1.50 acres, Parcel 3=1.50 acres and Parcel 4=1.67 acres on property located on the east side of Badger Flat Road, 4200 feet north of Highway 152 in the Los Banos area

RECOMMENDATION: Deny the San Joaquin Raptor Rescue Center/Protect Our Water Appeal regarding alleged violation of the Ralph M. Brown Act and regarding the alleged violations of CEQA. Further, that the Board: Determine Minor Subdivision Application No. MS09-014 for Pacheco LLC is exempt from CEQA review under Section 15315- "Minor Land Divisions" of the CEQA guidelines based upon the CEQA Findings therein; and, Determines the project approval, including the public meeting agendas for the project, comply with the Brown Act, Government Code Sections 95450 et seq. and 95452.2, and with Board of Supervisors Policy Directive of January 26, 2010; and, Approves Minor Subdivision Application No. MS09-014 based on the project findings and recommended conditions of approval

REVIEW BOARD ORDER – SEE PAGES 14 THROUGH 17

PLANNING - PUBLIC HEARING

To consider an Appeal of the Planning Commission determination and approval of the Lakeview Properties Subdivision (Application No. MAS04-014) due to alleged violation of the Ralph M. Brown Act and CEQA on March 10,

2010 filed by San Joaquin Raptor Rescue Center/Protect Our Water. Said Application submitted by Ed Grossman to subdivide a 58 acre parcel into 35 single family residential lots, an 8 acre remainder parcel, a 4 acre ecological preserve and a 9 acre passive recreational area on property located on the northeast corner of Merced Falls Road and La Grange Road in the Snelling area

RECOMMENDATION: Deny the San Joaquin Raptor Rescue Center/Protect Our Water Appeal regarding alleged violation of the Ralph M. Brown Act, and regarding the alleged violations of CEQA. Further, that the Board: Determine the Mitigated Negative Declaration prepared for the Lakeview Properties Major Subdivision Application No. MAS04-014 is legally adequate based on the CEQA Findings therein; Determines the project approval, including the public meeting agenda for the project, comply with the Ralph M. Brown Act, Government Code Sections 95450 et seq. and 95452.2, and with Board of Supervisors Policy Directive of January 26, 2010; and, Adopts the Mitigated Negative Declaration prepared for the Lakeview Properties Major Subdivision Application No. MAS04-014 based on the CEQA Findings therein and including the CEQA Mitigation Measures; and, Approves Lakeview Properties Major Subdivision Application No. MAS04-014 based on the associated project findings, recommended conditions of approval and the CEQA mitigation measures

REVIEW BOARD ORDER – SEE PAGE 17

REPORTS/BOARD DIRECTION

County Executive Officer, County Counsel, Board of Supervisors Members

CONSENT CALENDAR (Items #1 - 38)

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

Public Works

1. Approve and authorize the Chairman to sign Amendment to Contract No. 2000125 with SCS Engineers for Landfill Air Quality Compliance and Landfill Gas Engineering for the Highway 59 Landfill and Billy Wright Landfill.
2. Approve and authorize the Chairman to sign Amendment to Contract No. 2009058 with Better Flooring, Inc. for Main Library Recarpeting Project, authorize addition of \$20,000 in Main Branch Trust Funds to the Project Budget, authorize issuance of Change Order in the amount of \$40,788, and approve the necessary budget transfer-\$20,000. (4/5 Vote Required)

Mental Health

3. Approve and authorize the Chairman to sign Renewal Contract No. 2008190 with Merced County Office of Education for Family Resource Council Services with Probation and Mental Health.
4. Approve and authorize the Chairman to sign Renewal Contract No. 2009077 with Staff Care, Inc. for temporary placement of Licensed Psychiatrist Services to provide medical services on a limited basis.

5. Approve and authorize the Chairman to sign Renewal Contract No. 2009142 with Merced Faculty Associates (MFA) for consumer physicals at the Marie Green Facility increasing contract from \$36,000 to \$46,000 and approve the necessary budget transfer-\$10,000.
6. Approve and authorize the Chairman to sign Amendment to Contract No. 2009060 with Golden Years Residential Care Home for Residential Care for consumers increasing contract from \$84,000 to \$102,000 and approve the necessary budget transfer-\$9,000.
7. Approve and authorize the Chairman to sign Amendment to Contract No. 2004110 with State Dept. of Alcohol and Drug Programs for the Negotiated Net Amount and Drug Medical Contract for the provision of alcohol and drug programs and adopt Resolution.

ADOPTED RESOLUTION NO. 2010-88

8. Approve Budget Transfer in the amount of \$160,520 from Trust Fund 2935 to cover various increased appropriations. (4/5 Vote Required)

Human Services Agency

9. Approve and authorize the Chairman to sign Renewal Contract No. 2009240 with Dos Palos Oro Loma joint Unified School District for Child Welfare Social Workers facilitating student leadership classes.
10. Approve and authorize the Chairman to sign Amendment to Contract No. 2005256 with District Attorney for Investigation of CalWORKs and Food Stamp Fraud and approve the necessary budget transfer-\$161,672. (4/5 Vote Required)

Dept. of Workforce Investment

11. Approve and authorize the Chairman to sign Amendment to Contract No. 2009213 with Employers' Training Resource (Kern-Inyo-Mono Counties) to participate in the San Joaquin Valley Green Jobs Corps which will add the recommended language by the State and reduce the in-kind funding requirement by \$93,559 to \$189,541.
12. Approve and authorize the Chairman to sign Amendment to Contract No. 2009212 with Madera Workforce Development Office to participate in the San Joaquin Valley Green Jobs Corps which will add the recommended language by the State and update the budget line items at a cost not to exceed \$56,664.
13. Approve the updated Training Provider Agreement (TPA) to be used in conjunction with the Individual Training Account (ITA) Certificate; authorize the Director of Admin. Services to sign the TPAs as they are negotiated with Training Providers on the State List and authorize the Dept. of Workforce Investment Director or her Designee to sign the ITA Certificate.
14. Approve Budget Transfers in the amount of \$115,000; \$200,000 and \$315,000 for increased need for participant training and supportive services. (4/5 Vote Required)

Ag. Commission

15. Approve and authorize the Chairman to sign Renewal Contract No. 2004107 with Calif. Cantaloupe Advisory Board for Anti-Theft Inspection Services.
16. Approve Budget Transfer in the amount of \$2,000 for Predatory Animal Control.

Health

17. Approve and authorize the Chairman to sign Amendment to Contract No. 2004009 with Decade Software Company, LLC for support of the Envision Data Management System for Environmental Health.
18. Approve Budget Transfer in the amount of \$2,384 for reversal of prior transfer from MAP to General Fund and Storage Facility costs.

Treasurer

19. Grant the Tax Collector relief for shortages in the amount of \$50 and authorize replenishment for a counterfeit bill.

Human Resources

20. Approve and authorize the Chairman to sign Renewal Contract No. 2005248 with Merced College to provide students with placement at Merced County for job experience.
21. Approve and authorize the Chairman to sign Amendment to Contract No. 2004311 with Liebert Cassidy Whitmore for legal services and approve the necessary budget transfer-\$50,000.

Planning

22. Set public hearing for May 25, 2010 at 10:00 a.m. to consider reverting back to acreage for Major Subdivision Application No. MAS10-001 submitted by KB Home into a single 8.75 acre parcel from a previously recorded subdivision known as Major Subdivision Application No. MAS04-001, "Lexington Park".
23. Set public hearing for May 25, 2010 at 10:00 a.m. to consider the transfer of Program Income from Commerce Aviation and Economic Development Department Economic Development Revolving Loan Account (RLA) to the Planning and Community Development Department Homeownership Assistance Revolving Loan Account.

Fire

24. Approve Budget Transfer in the amount of \$132,310 for insurance reimbursement and repair of Fire Engine #71. (4/5 Vote Required)

District Attorney

25. Approve Budget Transfers in the amount of \$6,545 for equipment (Fixed Asset) of Case Management System from Trust 02593 and \$5,700 for Board Action taken on 8/4/09 to purchase equipment from VAWA Stimulus Grant Funds. (4/5 Vote Required)
26. Approve Budget Transfer in the amount of \$422 based on increased revenue from Edward Byrne Memorial Justice Assistance Grant.

Board Recognition

27. Proclaim May 16 through 22, 2010 as "Emergency Medical Services Week" in Merced County.

28. Proclaim June 10, 2010 as Merced County Free Library 100th Anniversary Celebration in recognition of the Merced County Free Library Service Centennial and The Early History of Merced County Free Library 1901-1976 (by Kathleen Brantley-Gutierrez) book signing.
29. Proclaim May, 2010 as "Older Americans Month" in Merced County.
30. Authorize Certificates of Recognition to individuals for their volunteer hours to the Merced County Courthouse Museum.

REVIEW BOARD ORDER – SEE PAGE 18

31. Authorize Certificates of Recognition to the Graduating Class 6 recognized by The Greater Merced Chamber of Commerce and Junior Leadership Merced from the following High Schools: Golden Valley, Buhach Colony, Atwater High, Livingston High, Stone Ridge Christian High and Merced High.

REVIEW BOARD ORDER – SEE PAGE 18

32. Authorize Certificate of Recognition to Ronald Gonzales for 35 years of service to the State of California.
33. Authorize Certificate of Recognition to Hilmar Historical Society in honor of their 7th Anniversary.
34. Authorize Certificates of Recognition to the Firefighters of the Year for the County Fire, Los Banos Fire, Atwater Fire, Livingston Fire, Merced City Fire, Dos Palos Fire and Gustine Fire Department.

REVIEW BOARD ORDER – SEE PAGE 18

35. Authorize Certificate of Recognition to Flores Insurance Agency in recognition of Ribbon Cutting.
36. Authorize Certificate of Recognition to Randy Beard for dedication to the Delhi Municipal Advisory Council.
37. Authorize Certificate of Recognition to Brian Duggan for dedication to the Delhi Municipal Advisory Council.
38. Authorize Certificate of Recognition to F&M Bank in recognition of Ribbon Cutting.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

39. Transit Joint Powers Authority - Approve the Amended and Restated Joint Powers Authority Agreement for a term of 10 years with Public Works to come back to the Board for consideration of a separate lease for use of the current Transit Facility at Wardrobe and Thornton at a later date and adopt Resolution.

ADOPTED RESOLUTION NO. 2010-89 AND AUTHORIZED CONTRACT NO. 2010112 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

40. Contract for operations of the Transit Service Functions with the Transit Joint Powers Authority for a period of one year and Public Works will come back to the Board for approval of a separate lease agreement for use of the current Transit Facility at Wardrobe and Thornton at a later date; and, authorize the Auditor to make technical budget corrections

and transfers of funds in connection with transfer of transit operations from the County to the Transit Joint Powers Authority.

**AUTHORIZED CONTRACT NO. 2010113 AS RECOMMENDED AYES: 1, 3, 4, 5
NOT PRESENT: 2**

41. Approve a Cash Flow Loan to the Countywide Transit Enterprise Fund from the County General Fund of up to \$1.5 million bearing interest rate equal to the rate the Merced County Treasury earns, to be repaid to the County General Fund by October 15, 2010.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

AG. COMMISSION

42. Contract with Calif. Dept. of Food and Agriculture for Asian Citrus Psyllid Survey Program and activities and adopt Resolution.

ADOPTED RESOLUTION NO. 2010-90 AND AUTHORIZED CONTRACT NO. 2010115 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

HEALTH

43. Authorize submission of the Solid Waste Local Enforcement Agency Grant Application to the Calif. Dept. of Resources Recycling and Recovery for FY 2010-11 and authorize the Chairman to sign all related documents and adopt Resolution authorizing the Director of Public Health or Designee for payment request forms subject to funds being awarded and accepted and understanding Department will return to the Board to accept funds.

ADOPTED RESOLUTION NO. 2010-91 AND AUTHORIZED CONTRACT NO. 2010114 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

DEPT. OF WORKFORCE INVESTMENT

44. Contract with State Employment Development Department to receive funding in the amount of \$465,521 in connection with Workforce Investment Act Subgrant Agreement PY 09/10 Wagner-Peyser (WP) 10%/American Recovery and Reinvestment Act (ARRA).

**AUTHORIZED CONTRACT NO. 2010116 AS RECOMMENDED AYES: 1, 3, 4, 5
NOT PRESENT: 2**

DEPT. OF ADMIN. SERVICES

45. Declare Miscellaneous Office Furniture, Office Equipment, and Miscellaneous Supplies identified in Exhibit A as Surplus Property and authorize its disposal and authorize its sale by Internet Public Auction.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

SHERIFF

46. Authorize the Sheriff to submit the 2010 State Criminal Alien Assistance Program (SCAAP) to the Bureau of Justice Assistance (BJA) through the computerized Internet Application process and the Sheriff will return to the Board if funding is awarded.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT

47. Contract with ICF International for preparation of Initial Study under the provisions of CEQA for the revised Castle Airport Master Plan and approve the necessary budget transfer. (4/5

Vote Required)

PULLED FROM THE AGENDA – NO ACTION TAKEN

TREASURER

48. Accept Quarterly Investment Report for the period of January 1, 2010 to March 31, 2010.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

COUNSEL

49. Contract with JSWWC Water & Wastewater Management, et al (Jared Steeley) for Receivership Services for the Ballico Community Services District as approved and appointed by the Superior Court of the State of California, County of Merced pursuant to Government Code Section 31000.

AUTHORIZED CONTRACT NO. 2010117 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

EXECUTIVE OFFICE

50. Authorize Reduction in Force of four filled positions in Public Works-BU 75300 effective June 30, 2010 as follows: One Transportation Manager (Pos 1), One Staff Services Analyst I/II (Pos 5), one Program Assistant (Pos 6) and one Facility Maintenance Assistant (Pos 7); authorize deletion of the following two vacant positions and two Extra Help Allocations effective June 30, 2010: one Assistant Transportation Manager (Pos 2), one Program Assistant (Pos 4), Extra Help Intern and Extra Help Program Assistant and adopt Resolutions.

REVIEW BOARD ORDER – SEE PAGE 19

BOARD OF SUPERVISORS

51. Authorize Special Board Project Funds-District One in the amount of \$3,680 to be utilized for the purchase and installation of a chain link fence around the Livingston Library Parking Lot and direct Admin. Services to issue a Purchase Order to Merced Fence Company.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

52. Authorize Special Board Project Funds-District One in the amount of \$1,000 each to the Le Grand High School Substance Abuse Committee for Sober Grad and \$1,000 to the Livingston High School Sober Graduation Committee.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

53. Authorize Special Board Project Funds-District Three in the amount of \$1,500 to be forwarded to the Castle Air Museum to support their efforts to buy billboard space on Highway 99.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

54. Authorize Special Board Project Funds-District Four in the amount of \$5,000 to be forwarded to City of Gustine in support of various community programs.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

BOARD APPOINTMENTS

55. Planning Commission – Reappointed Lynn Tanner, representing District Two, until October 1, 2012.

APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

56. Merced Cemetery District – Reappointed Donald Washburn until July 1, 2014.
APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: 1, 3, 4, 5 NOT PRESENT: 2

57. Public Works re: Notification of Contract Award to Garrett Thompson Construction, Inc. for the Santa Nella Fire Station Fencing and Parking Lot Refurbishment Project.
CONTRACT NO. 2010041
58. CAED re: Notification of Facility Use Agreement/Contract with Fresno Sports Car Club of America for the special racing events set April 11, July 11, August 8 and October 10, 2010 on parking lots located at Challenger, Apron, Bomber, Turbine and Thunderbird Avenue.
AWARDED CONTRACT NO. 2010118
59. Dept. of Admin. Services re: Internet Auction Proceeds for sale of surplus property held for the period January 1, 2010 through March 31, 2010, net proceeds in the amount of \$3,921.41.
60. Caltrans re: Notification Resolution R3759 has been recorded on April 23, 2010 and is the "last act" that transfers, in addition to all obligations, all of the State of California's rights, title and interests in and to the portions of the collateral facilities and superseded highway, and all rights, title and interests now vested in the County of Merced per Section 73 of the Streets and Highways Code.
61. CSAC re: 2010 CSAC Challenge Awards-Invitation for entries with deadline of June 11, 2010.
62. Somach Simmons & Dunn, A Professional Corporation re: Petition for Temporary Transfer and the required Environmental Information for Petitions for a proposed transfer of up to 7295 acre feet of water from the Stevinson Water District, in Merced County, to the East Bear Creek Unit of the San Luis National Wildlife Refuge, also located in Merced County.
63. State Water Resources Control Board re: Notice of Opportunity for public comment on the Proposed 2010 Integrated Report: Clean Water Act Section 303(d) List of Water Quality Limited Segments and Clean Water Act Section 305(b) Assessment of Surface Water Quality set for June 15, 2010 in Sacramento, CA.
64. State Fish and Game Commission re: Revised Commission Findings rejecting the petition to list the American Pika as a threatened species which will be published in the California Regulatory Notice Register on April 30, 2010.
65. State Fish and Game Commission re: Notice of California Environmental Quality Act (CEQA) Public Scoping Meeting and Annual Status Report, Phase II Amendments to the Water Quality Control Plan for Enclosed Bays and Estuaries - Park 1 Sediment Quality Objectives set for May 19, 2010 in Sacramento, CA.
66. MBK Engineers re: Notice to Division of Water Rights relative to Petition for Temporary Transfer under Merced irrigation District's License 11395 (Application 16185).
67. State Wildlife Conservation Board re: Request from Ducks Unlimited, Inc. to: (1) Consider a project to install three lift pumps to help manage and enhance 2,414 +/- acres of wetlands on the Dept. of Fish and Game's Los Banos Wildlife Area located in Merced County; and (2) Consider a Project to restore Riparian Habitat on Private Agricultural lands in Merced County to provide additional wildlife habitat will also help improve ag. operations by filtering

out pollutants and sediments before reaching waterways and suppressing non-native weeds.

68. Central Valley Regional Water Quality Control Board re: Aquatic Life and Wildlife Preservation Related Issues Proposed NPDES Permit Renewal for Sacramento Regional County Sanitation District - Sacramento Regional Wastewater Treatment Plant, April 28, 2010 - written comments due by June 1, 2010.

ADOPTED RESOLUTIONS IN MEMORY OF ROBERT NOLTE, DWIGHT M. EWING AND JOHN JAMES "JACK" MCCULLOUGH, JR. AND ADJOURNED THE MEETING UNTIL TUESDAY, MAY 25, 2010 AT 10:00 A.M.

BOARD ORDERS – SUMMARY ACTION MINUTES – MAY 11, 2010

9:00 A.M. SCHEDULED ITEM
2010-05-11 CLOSED SESSION

The Board recesses into Closed Session at 9:00 a.m. to discuss the following with Supervisor Walsh not present:

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-Commerce, Aviation and Economic Development pursuant to Government Code Section 54956.8 as follows: Castle Airport, Building 1350

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

CLOSED SESSION - 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): San Joaquin Raptor Rescue Center; Protect Our Water v. County of Merced; Merced County Planning Commission and Does 1 to 20, Ingomar Packing CO. LLC; Tim Durham; SPG Solar, Inc.; Dan Berger and Does 21-40, Superior Court of the County of Merced, Case No. CV000787

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION: It is the intention of the Board to meet in Closed Session concerning Initiation of Litigation pursuant to Government Code Section 54956.9(c): One Case

The Board reconvened at 10:00 a.m. with Supervisor Walsh not present and the Chairman advised Closed Session was discussed and direction was given to Staff and Counsel has an announcement on a reportable item out of Closed Session.

County Counsel James Fincher states in the matter of San Joaquin Raptor Rescue Center vs. County of Merced and Real Party Interests Ingomar Packing, there was discussion and the Board authorized a Stipulation and dismissal, waiver of fees and to dismiss the entire lawsuit.
Present: O'Banion, Pedrozo, Nelson, Kelsey
Not Present: Walsh

10:00 A.M. SCHEDULED ITEM
2010-05-11 PUBLIC OPPORTUNITY

The Chairman calls for anyone interested in speaking at the Public Opportunity.

Gordon Gray, Snelling Municipal Advisory Council, speaks about safe routes to school with regard to Lakeview Properties Subdivision.

Chairman O'Banion asks that Mr. Gray wait until the Public Hearing on this matter which is on today's agenda.

Supervisor Kelsey states she asked Mr. Gray to speak regarding a letter he has submitted on the same issue.

Mr. Gray continues to speak on the lack of safe routes to school with regard to the Lakeview Properties Subdivision.

Stacey Cotter, Merced County Elections, informs the Board that official ballots were available as of May 10, 2010.

Present: O'Banion, Pedrozo, Nelson, Kelsey

Not Present: Walsh

10:00 A.M. SCHEDULED ITEM

2010-05-11 MENTAL HEALTH – PUBLIC HEARING – ORDINANCE NO. 1873

The time and date previously set for a public hearing to consider a Proposed Ordinance titled: An Ordinance Changing Fees Charged for Mental Health Services (Supersedes Ordinance No. 1868 and Amends Merced County Code Chapter 9.48, Section 9.48.030) submitted by Mental Health Department.

Mental Health Director Manuel Jimenez 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 Kelsey, seconded by Supervisor Pedrozo, the Board waives further reading and adopts Ordinance No. 1873.

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Not Present: Walsh

10:00 A.M. SCHEDULED ITEM

2010-05-11 BOARD OF SUPERVISORS – PUBLIC HEARING – ORDINANCE NO. 1874

The time and date previously set for a public hearing to consider a Proposed Ordinance titled: An Ordinance Adopting Fees for Providing Specific Services in the Board of Supervisors Office. (Repeals Ordinance No. 1827 and 1330 and amends Merced County Code Section 2.58.050)

Merced County Assessor Kent Christensen discusses the impacts upon his office with the applications that are filed.

County Executive Officer Larry T. Combs states the Proposed Ordinance sets a \$30 fee for filing an Application for Changed Assessment and this fee recovers a portion of the costs related to processing Applications for Changed Assessment. Mr. Combs further states a Voluntary Retirement Program staff member was authorized to return to assist in the workload because of the dire need.

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

The Chairman closes the Public Hearing.

Upon motion of Supervisor Nelson, seconded by Supervisor Pedrozo, the Board waives further reading and adopts Ordinance No. 1874.

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Not Present: Walsh

10:00 A.M. SCHEDULED ITEM
2010-05-11 PLANNING – PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal of the Planning Commission Determination and Approval of Minor Subdivision Application No. MS09-014 due to alleged violations of the Ralph M. Brown Act and CEQA filed by San Joaquin Raptor Rescue Center/Protect Our Water. Application filed by Pacheco LLC to divide 6.17 acres into four parcels of Parcel 1=1.50 acres, Parcel 2=1.50 acres, Parcel 3=1.50 acres and Parcel 4=1.67 acres on property located on the east side of Badger Flat Road, 4200 feet north of Highway 152 in the Los Banos area.

Development Services Director Robert Lewis briefly reviews the Staff Report.

Planner Dave Gilbert reviews the power point presentation.

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

The Chairman closes the Public Hearing.

Following discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board denies the San Joaquin Raptor Rescue Center/Protect Our Water Appeal and upholds the March 10, 2010, Planning Commission CEQA determination and Project Approval of MS09-014-Pacheco LLC, and, the Board determines that the agenda language used for the March 10, 2010, Planning Commission agenda item was consistent with the previous Board direction and fully addresses all the Ralph M. Brown Act compliance defects alleged by San Joaquin Raptor Rescue Center and Protect Our Water; the Board determines that Minor Subdivision Application No. MS09-014 for Pacheco LLC is exempt from CEQA review under Section 15315 – “Minor Land Divisions” of the CEQA Guidelines based on two CEQA Findings;

CEQA Findings:

1. The Board of Supervisors finds that the application is exempt from CEQA review under Section 15315 - “Minor Land Divisions” based on the following:
 - The area is zoned for industrial uses in the County.

- The division is four or fewer parcels and is in conformance with the County General Plan and zoning.
 - There is no variance required or being requested.
 - All services and access to the proposed parcels to local standards are available.
 - The parcel was not involved in a division of a larger parcel within the previous 2 years.
 - The parcel does not have an average slope greater than 20 percent.
 - There are no significant environmental impacts caused by this application.
2. The determination that the application is exempt from CEQA review reflects the independent judgment of the County.

and approves Minor Subdivision Application No. MS09-014 based on the 11 Project Findings and subject to 5 Conditions as follows:

Project Findings:

1. The proposal is to divide 6.17 acres of industrial zoned land into four parcels of: Parcel 1 = 1.50 acres, Parcel 2 = 1.50 acres, Parcel 3 = 1.50 acres, and Parcel 4 = 1.67 acres.
2. The project is located on the east side of Badger Flat Road, 4,200 feet north of Highway 152 in the Los Banos area.
3. The project site is designated Industrial land use in the County General Plan and zoned Light Manufacturing (M-1).
4. The project has been reviewed by County departments, including the Division of Environmental Health, the Fire Department, and the Public Works Road Division, who have stated they have no objection to the proposed division.
5. The project is consistent with Section 18.26 (Development Standards) of the Merced County Zoning Code concerning the minimum parcel size and lot width in the M-1 zoning district.
6. The proposed division, as conditioned, is compatible with adjacent properties and uses in the area.
7. The proposal, if carried out in compliance with all requirements, will not be a nuisance or detrimental to the public health, safety or general welfare.
8. The public hearing has been adequately noticed and advertised.
9. The application is consistent with the Merced County General Plan, specifically Chapter 1, Land Use Chapter.
10. Pursuant to Merced County's Property Tax Sharing Agreement with the City of Los Banos, there is no conflict with the City's 1999 General Plan and the County's current General Plan land use designations.
11. The County does not recognize the newly adopted 2030 Los Banos General Plan Update as being valid and consistent with the current City of Los Banos and Merced County Tax Sharing Agreement that was adopted by Merced County LAFCo.

Conditions of Approval:

Merced County Planning and Community Development

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Planning Commission approval date as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant/property owner shall comply with all applicable conditions contained in Planning Commission Resolution 97-1.
3. The applicant/property owner shall comply with all Federal, State, and Local regulations.
4. A Right-to-Farm Certificate shall be recorded prior to issuance of any building permits to notify subsequent occupants of the inconveniences of farming operations and the priority to which Merced County places on such operations.

County Counsel

5. Pacheco LLC and Michael Trevino must indemnify, defend and hold harmless, the County of Merced, its Board of Supervisors, commissions, officers, employees, agents and assigns (hereinafter "County") from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, expert witness and consultant fees and other costs and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the approval, modification, denial, or the exhaustion of administrative appeals associated with MS09-014 ("project") 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 Pacheco LLC including Michael Trevino. The liability of Pacheco LLC and Michael Trevino for indemnity under this term and condition shall apply, regardless of fault, to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of Pacheco LLC and Michael Trevino, its employees, subcontractors, agents, and officers. The duty shall extend to any allegation or 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 notice of filing a lawsuit, claim, petition, or allegation of liability against County. Pacheco LLC and Michael Trevino will on request and at its expense, defend any action suit or proceeding arising hereunder. This term and condition and shall not be limited to any claim, petition, demand, liability, judgment, award, interest, attorney's fees, expert or consultant witness fees, legal research fees, staff and administrative costs, administrative record costs, materials, and costs and expenses of whatsoever kind or nature, that may arise at the time of project approval, modification, or denial, but shall also apply to all such claims and the like, after project approval, modification, denial, or the exercise or exhaustion of administrative appeals, including but not limited to actions arising from public interest, land use and environmental legal actions. Attorney's fees shall include any and all attorney's fees but not be limited to attorney's fees and staff time incurred by the offices of County counsel. County shall have full discretion to select legal counsel of its own choosing to represent County, at a cost not exceeding the prevailing and reasonable rates for counsel practicing environmental and land use law in the State of California, or practicing any other

area of law that the County determines the claim may reasonably require. This term and condition for indemnification shall be interpreted to the broadest extent permitted by law.

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Not Present: Walsh

10:00 A.M. SCHEDULED ITEM
2010-05-11 PLANNING – PUBLIC HEARING

The time and date previously set for a public hearing to consider an Appeal of the Planning Commission determination and approval of the Lakeview Properties Subdivision (Application No. MAS04-014) due to alleged violation of the Ralph M. Brown Act and CEQA on March 10, 2010 filed by San Joaquin Raptor Rescue Center/Protect Our Water. Said Application submitted by Ed Grossman to subdivide a 58 acre parcel into 35 single-family residential lots, an 8 acre remainder parcel, a 4 acre ecological preserve and a 9 acre passive recreational area on property located on the northeast corner of Merced Falls Road and La Grange Road in the Snelling area

Planner James Holland reviews the power point presentation.

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

Gordon Gray, on behalf of the Snelling Municipal Advisory Council, presents photos of the right-of-way stating only the walkway is being protested because it is hazardous and requires pedestrians to go out to the roadway. Mr. Gray discusses the various rights-of-way, the location of the proposed walkway, and the need for the walkway to be along the road.

Brian Stice, representing the applicant, advises he has worked with the project for the last three years, and the applicant with the community for six years along with working closely with Staff. Mr. Stice advises the applicant has gone above and beyond to address concerns including safe access to school and feels if there were concerns regarding the safe access to school this should have been expressed by the Snelling School.

Weldon Mattos, Snelling, states he has attended many meetings and has brought this issue to the attention of the School Board and that his idea for a bus route was opposed by the School Board. Mr. Mattos speaks in favor of this project.

The Chairman closes the Public Hearing.

Following discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board continues this matter to the next Board meeting with the Public Hearing remaining open.

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Not Present: Walsh

CONSENT ITEM NO. 30

2010-05-11 BOARD OF SUPERVISORS

Upon motion of Supervisor Pedrozo, seconded by Supervisor Nelson, duly carried, the Board authorizes Certificates of Recognition to the following individuals for their volunteer hours to the Merced County Courthouse Museum:

30+ Docent Hours: Karen Albright, Rick Albright, Judi Arthur, Carol Batcho, Ann Bean, Timmie Bressler, Bernice Bryant, Michle Burroughs, Joann Callaway, Veronica Carlisle, Ann Carson, Karen Chastain, Durell Ewing, Avis Gaffery, Tom Gaffery, Lyn George, Joyce Hambley, Doris Hamill, Gaylan Hyson, Lois Jimenez, Laverne Johnson, David Kahl, Dorothy Knox, Hahn Knutsen, Harriet Ledford, Carol Luhring, Peggy Merritt, Andrea Morris, Anthony Ochoa, Charlotte Pavelko, Roberta Saling, Ty Shaeffer, Mary Jo Stavros, Elizabeth Wallace, Herb Wood, Carol Silva

100+ Volunteer Service Hours: Karen Albright, Rick Albright, Judi Arthur, Ann Carson, Veronica Carlisle, Durell Ewing, Hahn Knutsen, Carol Luhring, Roberta Saling, Herb Wood

1000+ Volunteer Service Hours: Carol Luhring, Ann Carson

2009 Group Tour Docent of the Year: Herb Wood

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Not Present: Walsh

CONSENT ITEM NO. 31

2010-05-11 BOARD OF SUPERVISORS

Upon motion of Supervisor Pedrozo, seconded by Supervisor Nelson, duly carried, the Board authorizes Certificates of Recognition to the following individuals for their graduation from Junior Leadership Merced Class 6:

Atwater High School: Emily Beresford, Terilyn Bettencourt, Cynthia Davidson, Maria Flores, Raisa Munoz, Christina Willman, Samantha Woodall; Buhach Colony High School: Stephanie Baeza-Diaz, Nick Langer, Samantha Smith; Golden Valley High School: Nue Her, Jenney Moua, Alexandria Ward, Tim Wells; Independence High School: Justin Byrd; Livingston High School: Fernando Carrillo, Raymond Freitas, Sumandeep Kaur; Merced High School: Valentin Reyes, Jr., Juan Sanchez; and Stone Ridge Christian High School: Erica Higgins

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Not Present: Walsh

CONSENT ITEM NO. 34

2010-05-11 BOARD OF SUPERVISORS

Upon motion of Supervisor Pedrozo, seconded by Supervisor Nelson, duly carried, the Board authorizes Certificates of Recognition to the following individuals for their selection as Firefighter of the Year: Captain Robert Blais, Atwater Fire; Paid-Call Volunteer Martin Meras, Jr., Dos Palos City Fire; Captain Robert Koop, Gustine City Fire; Volunteer James Clark, Livingston City Fire; Paid-Call Firefighter John Dutra, Los Banos Fire; Career Firefighter Zack Sawyer, Los Banos Fire; Captain Kevin Filgas, Merced City Fire; Career-Engineer Adam Amaral and Volunteer Marco Reyes, Merced County Fire.

Ayes: O'Banion, Pedrozo, Nelson, Kelsey

Not Present: Walsh

ACTION ITEM NO. 50

2010-05-11 HUMAN RESOURCES

The Clerk announces the Transit Joint Authority Transition from Public Works is before the Board for consideration.

Public Works Director Paul Fillebrown reviews the Staff Report stating effective July 1, 2010 the County functions of the Transit Division will transition to the Joint Powers Authority with the six municipalities in the County and the County will no longer have a Transit Division.

Following discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Nelson, duly carried, the Board authorizes Reduction in Force of four filled positions in Public Works-BU 75300 effective June 30, 2010 as follows: One Transportation Manager (Pos 1), One Staff Services Analyst I/II (Pos 5), one Program Assistant (Pos 6) and one Facility Maintenance Assistant (Pos 7); deletes the following two vacant positions and two Extra Help Allocations effective June 30, 2010: one Assistant Transportation Manager (Pos 2), one Program Assistant (Pos 4), Extra Help Intern and Extra Help Program Assistant and adopts Resolution No. 2010-92 (Positions) and 2010-93 (Salary).

Ayes: Kelsey, Pedrozo, Nelson, O'Banion

Not Present: Walsh