STRIVING FOR EXCELLENCE

SUMMARY ACTION MINUTES

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, JULY 27, 2010

Interviews – 8:45 a.m.

(1) Santa Cruz-Monterey-Merced Managed Medical Care Commission
(2) Commerce, Aviation & Economic Development Revolving Loan Fund Loan Administration Board
(3) Housing Authority of the County of Merced

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 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

8:45 A. M.

INTERVIEWS - SANTA CRUZ-MONTEREY-MERCED MANAGED MEDICAL CARE COMMISSION
TWO POSITIONS: One Provider-At Large; One Provider/Nongovernmental Community Clinic-At Large
Applicant: Christine Noguera for Provider/Nongovernmental Community Clinic-At Large
REVIEW BOARD ORDER – SEE PAGE 10

INTERVIEWS - COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT (CAED) REVOLVING LOAN FUND LOAN ADMINISTRATION BOARD
FOUR POSITIONS: One Business Person-At Large; Three Commercial Lenders-At Large
Applicant: Denard Davis for Business Person-At Large
REVIEW BOARD ORDER – SEE PAGES 10 AND 11

INTERVIEWS - HOUSING AUTHORITY OF THE COUNTY OF MERCED
ONE POSITION: Board Representative-At Large
Applicant: William Baker for Board Representative-At Large
PULLED FROM THE AGENDA – NO ACTION TAKEN

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

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Government Code Section 54956.9(b): One Case

9:00 A. M. **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): Crane-McNab, LLC, et al. v. County of Merced, United States Eastern District Court Case No.: 1:08-cv-1218; and Sofranek v. County of Merced, Merced Superior Court Case No. 148246

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): Two Cases

REVIEW BOARD ORDER – SEE PAGE 11

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 11

APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 23)
APPROVED AS RECOMMENDED AYES: ALL

TREASURER-TAX COLLECTOR - PUBLIC HEARING - PROPOSED ORDINANCE AND POSSIBLE ADOPTION
To consider Proposed Ordinance: An Ordinance amending the Merced County Revenue and Reimbursement Fee Schedule (Amends Ordinance No. 1838 and Merced County Code Section 5.38.140)
RECOMMENDATION: Waive further reading and adopt Proposed Ordinance

REVIEW BOARD ORDER – SEE PAGE 12

PLANNING - PUBLIC HEARING
To consider Proposed Resolution adjusting the Development Processing Services Fee Schedule (Amends Resolution No. 2009-57), and authorize Refunds of Community Plan Update and General Plan Update Fees paid for solar panel installations charged to building permits valued over $10,000 for projects submitted since January 1, 2010
RECOMMENDATION: Adopt Resolution and approve recommended Refunds for projects submitted since January 1, 2010

REVIEW BOARD ORDER – SEE PAGE 12

REPORTS/BOARD DIRECTION
County Executive Officer, County Counsel, Board of Supervisors Members

CONSENT CALENDAR (Items #1 - 23)

APPROVED AS RECOMMENDED AYES: ALL

Mental Health

1. Approve and authorize Chairman to sign Renewal Contract No. 2008009 with Quest Diagnosis to provide laboratory testing for consumers at all Mental Health facilities.
2. Approve and authorize Chairman to sign Renewal Contract No. 2006018 with Healthy House Within a Match Coalition for interpreter services.
3. Approve and authorize Chairman to sign Renewal Contract No. 2007034 with Community Action Agency for property management and services related to the implementation of Project Home Start.

Sheriff

4. Approve and authorize Chairman to sign Renewal Contract No. 2009097 with Merced Irrigation District for patrol services to MID property located in Merced County.
5. Approve and authorize Chairman to sign Amendment to Contract No. 2003153 with Public Works for Law Enforcement Services at Lake Yosemite.

Ag. Commission-Animal Control

6. Approve and authorize Chairman to sign Amendment to Contract No. 2009036 with Dr. Lauren Sampson, DVM for limited Veterinarian services at the Animal Control Shelter.

Human Services Agency

7. Approve and authorize Chairman to sign Amendment to Contract No. 2009164 with UC Davis for staff training for child welfare services and extending contract through May, 2011.

Executive Office

8. Approve and authorize Chairman to sign Renewal Contract No. 2003282 with Superior Court for services and reimbursement for court operations for FY 2010.

Board Recognition

9. Proclaim August, 2010 as Child Support Awareness Month for Merced County and authorize the hanging of a banner over G Street between 19th and 20th Streets for the one week.
10. Authorize Certificate of Recognition to The Coffee Block in recognition of Ribbon Cutting.
11. Authorize Certificate of Recognition to Margaret Randolph in recognition of naming of the Margaret M. Randolph Board Room at Merced Community College.

12. Authorize Certificates of Recognition to individuals selected to participate in the InnerSpark Summer Art Program: Jessa Ragus-Le Grand High School; Jonaree Evans-Merced High School; Jessica Anderson-Merced High School and Joel Aguilar-Livingston High School.
13. Proclaim May 21, 2010 as Sunrise Rotary Appreciation Day in the County of Merced.
14. Authorize Certificates of Recognition to scholarship recipients selected by the Central Valley Opportunity Center for Madera County, Stanislaus County and Merced County, Merced County recipients: Yesenia Reyes, Myriam Zavalza, Josselin Gomez, Zayra Padilla and Carlos Marquez, Jr.; and the following 2010 Award Winners: Ofelia S. Reynoso-Outstanding Manager Award; Maggie Ramirez, Outstanding Employee Award-Client Services; Liz Teixeira-Outstanding Employee Award-General Services and William Sylvia-Board Member of the Year 2010-2011.
15. Authorize Certificates of Recognition to the Livingston-Merced Chapter of the Japanese American League and Dr. Leo Hernandez for recognition of the 2010 Making Democracy Work Award from the League of Women Voters of Merced County.
16. Authorize Certificate of Recognition to Mi Pueblo Food Center for recognition of Ribbon Cutting.
17. Authorize Certificates of Recognition to the individuals honored by the Merced Lao Family Community, Inc. for completing 12 hours of Hmong Consultation Mental Health Training: Pha Chang, Phoua Her, Toua Her, Vang Chue Her, Chong Cher Lee, Chong Cher Lee, Chong Ma Lee, Chue Lee, Kia Lee, Lee Fong Thao, Mai Xiong Thao, Paul Thao, Xia Thao, Blia Thao, Chai Yang Vang, Chong Nhia Vang, May See Vang, Xia Vang, Ma Vue, Mai Lee Xiong, Saly Xiong, Song Leng Xiong, Blia Yang, and Fay Teng Yang.
18. Authorize Certificate of Recognition to Big Will's Louisiana Po'Boys in recognition of Ribbon Cutting.
19. Authorize Certificate of Recognition to Cora Gonzales in recognition of her retirement from the Livingston Medical Group serving the residents of Merced County.
20. Authorize Certificate of Recognition to Hilmar Cheese Company for recognition of New Dairy Exhibit Ribbon Cutting.
21. Authorize Certificate of Recognition to Stevinson Pentecost Association in support of annual religious parade.
22. Authorize Certificate of Recognition to Remax Local Realty for recognition of Ribbon Cutting.
23. Authorize Certificate of Recognition to Jason Ralls in recognition of selection by the Father of the Year Committee as the 2010 Father of the Year.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

24. Approve Plans and Specifications for Interior Demolition Bid Package (Phase I) for District Attorney Tenant Improvements at the former County Bank Building and authorize Public Works to advertise for a public bid opening and direct Public Works to return to the Board

for Award of the Contract to the lowest responsible bidder; and Direct Public Works to return to the Board with the Final Design Development Phase Estimate for approval prior to proceeding with the Construction Documents Phase of the design.

AUTHORIZED CONTRACT NO. 2010173 AS RECOMMENDED AYES: ALL

25. Approve Recarpeting and Window Coverings at the Law Library; approve the total project budget of $20,000; authorize use of Special Board Project Funds-District Three and District Five in the amount of $10,000 each for a total of $20,000; authorize issuance of Purchase Orders to complete work upon concurrent approval of the Law Library Board of Trustees.

AUTHORIZED CONTRACT NOS. 2010189 (RECARPETING) & 2010190 (WINDOW COVERINGS) AS RECOMMENDED AYES: ALL

26. Old Hospital Re-Use Options - (1) Select Option 2, Option 3b or Option 8 as the preferred Re-Use Option for the Old Hospital (provided in Summary of Staff Report); and (2) Direct Public Works to return to the Board with a recommended implementation plan, schedule CEQA review and financial plan at the August 24, 2010 Board Meeting.

REVIEW BOARD ORDER – SEE PAGE 13

HUMAN SERVICES AGENCY

27. Authorize release of Request for Proposal to obtain a pool of experts for providing psychological evaluations for Child Welfare Services, to select the most responsive providers and to return to the Board with Contracts for final Board approval.

APPROVED AS RECOMMENDED AYES: ALL

28. Contract with Transit Joint Powers Authority for Reduced Cost Transportation Program for Senior Bus Passes.

AUTHORIZED CONTRACT NO. 2010174 AS RECOMMENDED AYES: ALL

29. Contract with Transit Joint Powers Authority for a No Cost Transportation Program for Senior Bus Passes.

AUTHORIZED CONTRACT NO. 2010175 AS RECOMMENDED AYES: ALL

MENTAL HEALTH

30. Contract with Juan Cruz, MPH, for California Brief Multicultural Service Trainings as part of the MHSA Prevention and Early Intervention Training pursuant to GC 31000.

AUTHORIZED CONTRACT NO. 2010178 AS RECOMMENDED AYES: ALL

AG. COMMISSIONER

31. Contract with D&D Disposal for animal carcass disposal services for FY 2010-2015 at the Animal Services Facility.

AUTHORIZED CONTRACT NO. 2010179 AS RECOMMENDED AYES: ALL

FIRE

32. Accept and authorize Chairman to sign Contract with California Dept. of Forestry and Fire Protection Rural Community Fire Protection Program for the Volunteer Fire Assistance Program Grant in the amount of $18,500 and authorize purchase of 100 New Generation Fire Shelters and 100 Wildland Packs with Harness and adopt Resolution.

AUTHORIZED CONTRACT NO. 2010180 AND ADOPTED RESOLUTION NO 2010-140 AS RECOMMENDED AYES: ALL

33. Award RFP No. 6512 to Howell Consulting and authorize Chairman to sign Contract for Revision Services to the Emergency Operations Plan (EOP).

AUTHORIZED CONTRACT NO. 2010181 AS RECOMMENDED AYES: ALL

DEPT. OF WORKFORCE INVESTMENT

34. Contract with Merced College for a Child Development (Infant/Toddler) Educational Course (with laboratory hours) for up to twenty-five Workforce Investment Act eligible participants at a cost not to exceed $37,000.

AUTHORIZED CONTRACT NO. 2010176 AS RECOMMENDED AYES: ALL

35. Contract with Merced College (Los Banos Campus) for a Certified Nursing Assistance Training for up to fifteen Workforce Investment Act eligible participants at a cost not to exceed $29,025.

AUTHORIZED CONTRACT NO. 2010177 AS RECOMMENDED AYES: ALL

36. Contract with State Employment Development Dept. for Workforce Investment Act Subgrant (K074150), Modification No. 7 adding $310,943 of National Emergency Grant/American Recovery and Reinvestment Act (NEG/ARRA) funding for a Statewide On-the-Job Training Project in Merced County.

AUTHORIZED CONTRACT NO. 2009222 AS RECOMMENDED AYES: ALL

LIBRARY

37. Contract with Retired and Senior Volunteer Program (RSVP) for services by volunteers with the County Library.

AUTHORIZED CONTRACT NO. 2010182 AS RECOMMENDED AYES: ALL

TREASURER

38. Resolution providing for the Temporary Borrowing of funds through the issuance of 2010 Tax and Revenue Anticipation Notes (TRANS) in the name of the Dos Palos Oro Loma Joint Unified School District in an amount not to exceed $3 million.

ADOPTED RESOLUTION NO. 2010-141 AS RECOMMENDED AYES: ALL

COUNSEL

39. Resolution directing County Counsel to take necessary actions to seek Bailout of Section 5 of the federal Voting Rights Act.

REVIEW BOARD ORDER – SEE PAGE 14

EXECUTIVE OFFICE

40. Contract with Innovative Claims Solutions, Inc. for Workers Compensation Claims Administration Services.

AUTHORIZED CONTRACT NO. 2010183 AS RECOMMENDED AYES: ALL

41. Proposed Referendum on Ordinance to Clarify the Merced County Citizens Right to Vote on Expansion of Residential Areas Initiative - Resolution to place an Ordinance before the Voters to clarify the Merced County Citizens Right to Vote on Expansion of Residential Areas, and issuing a Notice of Exemption from the California Environmental Quality Act for this action.

REVIEW BOARD ORDER – SEE PAGE 14 THROUGH 17

BOARD APPOINTMENTS

42. Post Scheduled Vacancies for Business Sector Membership (Carol Greenberg, Vann (Mike) Smith, Richard Osorio, Michael Sullivan) for the Workforce Investment Board terms that expired on June 30, 2010 as required by WIB Bylaws.
    APPROVED AS RECOMMENDED AYES: ALL

43. Milliken Museum Advisory Committee – Appointed Jessie Stoddard, representing City of Los Banos, until May 10, 2012.
    APPROVED AS RECOMMENDED AYES: ALL

44. Le Grand Recreation Committee – Appointed Anthony Frias until December 1, 2013.
    APPROVED AS RECOMMENDED AYES: ALL

45. McSwain Municipal Advisory Council – Appointed Alan Niebel and reappointed Pam Schroeder until July 26, 2013.
    APPROVED AS RECOMMENDED AYES: ALL

46. Santa Cruz-Monterey-Merced Managed Medical Care Commission - (1) Select and appoint up to two At Large Members based on the high scores of candidates above the 70% threshold and, (2) Should no candidate(s) be selected, instruct the Clerk of the Board to continue to receive applications for the positions.
    REVIEW BOARD ORDER – SEE PAGE 10

47. Commerce, Aviation and Economic Development Revolving Loan Fund Loan Administration Board - (1) Select and appoint up to four At Large Members based on the high scores of candidates above the 70% threshold and, (2) Should no candidates be selected, instruct the Clerk of the Board to continue to receive applications for the positions.
    REVIEW BOARD ORDER – SEE PAGE 10 and 11

48. Housing Authority of the County of Merced - (1) Select and appoint one At Large Member based on the high scores of candidates above the 70% threshold and, (2) Should no candidate be selected, instruct the Clerk of the Board to continue to receive applications for the position.
    PULLED FROM THE AGENDA – NO ACTION TAKEN

BOARD INFORMATION & POSSIBLE ACTION

ACCEPTED AND PLACED ON FILE AYES: ALL

49. Public Works re: Notification of Contract Award to Teichert Construction, Inc. for Avenue Two Bridge over Canal Creek Project in Merced County.
    AWARDED CONTRACT NO. 2010065

50. Commerce, Aviation and Economic Development re: Notification of lease agreement issued to Fire Department for Building #340 (approximately 8,120 sq. ft) and adjacent land and parking within a fenced area located at Castle Commerce Center.
    CONTRACT NO. 2010184

51. Commerce, Aviation and Economic Development re: Notification of Facility Use Contract with Velo Promo and Golden Chain Cyclists for the Big Creek Lumber Criterium Bicycle Race held on July 5, 2010 at Castle Commerce Center.
    CONTRACT NO. 2010185

52. Commerce, Aviation and Economic Development re: Notification of Facility Use Contracts - Top Flight TV, Patriots Jet Demonstration Team and David Reesa held a Vette vs. Jet Exhibition Race on July 8, 2010 at Castle Airport.

CONTRACT NO. 2010186 (PATRIOT AERIAL TEAM), 2010187 (TOP FLIGHT), AND 2010188 (DAVID REESA)

53. Dept. of Admin. Services re: Notification of Net proceeds of sale of Surplus Property on the Internet from Public Surplus LLC for period of April 1, 2010 through June 30, 2010 amounted to $123,623.66.

54. Merced Union High School District re: Resolution requesting the Board to establish a tax rate for bonds of the Merced Union High School District expected to be sold during Fiscal Year 2010-11 and authorizing necessary actions in connection therewith.

55. State Fish and Game Commission re: Copy of Notice of Proposed Regulatory Action relative to Section 300, Title 14, California Code of Regulations relating to upland game bird hunting which will be published in the Calif. Regulatory Notice Register on June 18, 2010.

56. State Fish and Game Commission re: Copy of Notice of Proposed Regulatory Actions relative to "Gear Restrictions" in the sections identified in Title 14, California Code of Regulations which will appear in the California Regulatory Notice Register on June 18, 2010.

57. State Fish and Game Commission re: Copy of Notice of Proposed Regulatory Action relative to Sections 502 and 507, Title 14, California Code of Regulations, relating to waterfowl hunting, which will be published in the California Regulatory Notice Register on June 18, 2010.

58. Central Valley Regional Water Quality Control Board re: Notice of Meeting - July 29, 2010.

59. Valley Water Alliance re: Recommended Dissolution of Valley Water Alliance Board of Directors Letter dated July 21, 2010 and Order for Proposed Action to occur by write-in vote, and Consent for Board Action Without a Meeting and Approval of Dissolution and Distribution of Assets to be signed and dated with 14 days; Signed and dated by Supervisor O'Banion as Merced County Representative dated July 27, 2010. (Report by Supervisor O'Banion for the Record)

THE BOARD RECESSED TO MEET AS A REDEVELOPMENT AGENCY AND RECONVENED AS A BOARD OF SUPERVISORS

ADOPTED RESOLUTIONS IN MEMORY OF FRANK GALLICHIO, ROSE FRAGO, THOMAS OLAETA AND STEPHEN SPAULDING AND ADJOURNED MEETING UNTIL TUESDAY, AUGUST 10, 2010 AT 10:00 A.M.

8:45 A.M. SCHEDULED ITEM/ACTION ITEM 46
2010-07-27 SANTA CRUZ-MONTEREY-MERCED MANAGED MEDICAL CARE COMMITTEE (SCMMMMCC)

The time and date previously set for Interviews for One At-Large Member: Provider-Nongovernmental Community Clinic to be appointed by the Board of Supervisors to serve on the Santa Cruz-Monterey-Merced Managed Medical Care Committee.

The Board interviews Christine C. Noguera.

****

Later in the day, the Clerk announces Action Item 46, Appointment to the Santa Cruz-Monterey-Merced Managed Medical Care Committee, is before the Board for consideration.

Management Analyst Caroline Callahan advises the score for the applicant interviewed met the criteria of 70% of the threshold with the score of 385 for Christina Noguera.

Upon motion of Supervisor Kelsey, seconded by Supervisor Nelson, duly carried, the Board appoints Christine Noguera to serve as the Provider-Nongovernmental Community Clinic-At Large representative on the Santa Cruz-Monterey-Merced Managed Medical Care Committee until April 22, 2011.
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

8:45 A.M. SCHEDULED ITEM/ACTION ITEM 47
2010-07-27 COMMERCE, AVIATION AND ECONOMIC DEVELOPMENT REVOLVING LOAN FUND LOAN ADMINISTRATION BOARD

The time and date previously set for interviews for One At-Large Member: Business Person to be appointed by the Board of Supervisors to serve on the Commerce, Aviation and Economic Development Revolving Loan Fund Loan Administration Board.

The Board interviews Denard Davis.

****

Later in the day, the Clerk announces Action Item 47, Appointment to the Commerce, Aviation and Economic Development Revolving Loan Fund Loan Administration Board is before the Board for consideration.

Management Analyst Caroline Callahan advises the score for the applicant interviewed met the criteria of 70% of the threshold with the score of 387 for Denard Davis.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Walsh, duly carried, the Board appoints Denard Davis to serve as the Business Person-At Large representative on the Commerce, Aviation, and Economic Development Revolving Loan Fund Loan Administration Board until December 22, 2011.
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

9:00 A.M. SCHEDULED ITEM
2010-07-27 CLOSED SESSION

The Board recesses into Closed Session at 9:00 a.m. with all members 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

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: It is the intention of the Board to meet in Closed Session concerning significant exposure to litigation pursuant to Government Code Section 54956.9(b): One Case

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - 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): Crane-McNab, LLC, et al. v. County of Merced, United States Eastern District Court Case No.: 1:08-cv-1218; and Sofranek v. County of Merced, Merced Superior Court Case No. 148246

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): Two Cases

The Board reconvenes at 10:00 a.m. with all members present and the Chairman states County Counsel Fincher will provide the update.

County Counsel James Fincher states in Closed Session the Board provided staff direction. The following Closed Session item was pulled from the agenda and not discussed: Existing litigation regarding Crane-McNab, LLC, et al. v. County of Merced, United States Eastern District Court Case No. 1:08-cv-1218; and Sofranek v. County of Merced, Merced Superior Court Case No. 148246.
Present: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

10:00 A.M. SCHEDULED ITEM
2010-07-27 PUBLIC OPPORTUNITY

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

Kathy Hassett, Director of Child Support Services, speaks regarding Child Support Awareness Month for Merced County.

Rick Osorio, Merced, comments regarding the Committee Interviews held at 8:45 a.m. today and suggests a process that includes developing a list of qualified applicants to be contacted for future vacancies.
Present: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

10:00 A.M. SCHEDULED ITEM
2010-07-27 TAX COLLECTOR – PUBLIC HEARING – ORDINANCE NO. 1878

The time and date previously set for a public hearing to consider a Proposed Ordinance: An Ordinance Amending the Merced County Revenue and Reimbursement Fee Schedule (Amends Ordinance No. 1838 and Merced County Code Chapter 5.38.140) submitted by the Treasurer-Tax Collector.

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 Kelsey, seconded by Supervisor Walsh, duly carried, the Board waives further reading and adopts Ordinance No. 1878.
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

10:00 A.M. SCHEDULED ITEM
2010-07-27 PLANNING – PUBLIC HEARING

The time and date previously set for a public hearing to consider a Proposed Resolution adjusting the Development Processing Services Fee Schedule (Amends Resolution No. 2009-57) submitted by Planning and Community Development.

Development Services Director Robert Lewis reviews the staff report.

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 adjusts the Planning and Community Development Department Processing Services Fee Schedule and adopts Resolution No. 2010-139 (Amends Resolution No. 2009-57).
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

ACTION ITEM NO. 26
2010-07-27 PUBLIC WORKS

The Clerk announces the Old Hospital Re-Use Options are before the Board for consideration.

Public Works Director Paul Fillebrown reviews the staff report and recommended Options 1 through 8 for the Old Hospital Re-Use provided for the Board selection.

Following discussion and upon motion of Supervisor Walsh, seconded by Supervisor Kelsey, the Board selects Option 8: Re-use of the 1963 wing (38,000 sf) as a One-Stop Permit Center; possible re-use of the warehouse/kitchen for record storage (17,000 sf); mothballing of the 1981 wing and chiller building, and demolition of the 1938 and 1951 wings (along with the miscellaneous outbuildings), with an estimated cost for this option at $17,000,000; direct Public Works to return to the Board with a recommended implementation plan, schedule the CEQA review and financial plan at the August 24, 2010 Board Meeting.

CEO Combs asks for point of clarification, does this include Staff issuing an RFP for businesses to purchase and re-use the building. Supervisor Walsh states at this point, it is just the selection of Option 8.

Supervisor Kelsey states she would like a separate motion or the motion amended to include doing an Outreach to see if there is any interest in the building, in addition to the re-use and other options that are outlined and part of Option 8.

Following further comments, the Chairman calls for a Vote on the Motion. Motion carries.
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

Following discussion, Supervisor Kelsey moves, Staff put together some type of RFP process for the buildings that are going to still be there so that we can explore all options that we might otherwise be unaware of.

Supervisor Walsh seconds the Motion.

Public Works Director Paul Fillebrown suggests a more detailed look at the Wing for a One-Stop Facility along with other projects, and review dual processes for the 63 and 81 Wings - while we are exploring the cost of using and converting for the One-Stop Center, we can also do an RFP for interested parties to see what interest is out there.

Supervisor Kelsey states there is a building in the back that we are going to take down that is farthest to the south, known as 38 Wing, and that whole area and space is open ground that we can potentially use which has water and city access nearby.

The Chairman calls for a Vote on the Motion. Motion carries.
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

ACTION ITEM NO. 39
2010-07-27 COUNTY COUNSEL

The Clerk announces a Resolution regarding Section V, Federal Voting Rights Act Bailout Application is before the Board for consideration.

County Counsel James Fincher reviews the staff report and history of Section 5 that covers Merced County. He states a public hearing was held on April 27, 2010 to provide the public with the opportunity to speak on the issue of whether the County should consider filing a lawsuit seeking to "bailout" of its coverage under Section 5 of the Voting Rights Act. The Board also established a site on the County's official website where the public can review the materials presented at the public hearing and comment on the issue of whether the County should consider filing a lawsuit seeking to "bailout" of its coverage under Section 5 of the federal Voting Right Act. To date, there has been no stated objection to the County filing a lawsuit seeking to "bailout" of its coverage under Section 5 of the federal Voting Rights Act.

Mr. Fincher states the bailout would have the following beneficial effects: remove the stigma of coverage, mitigate the high costs and protect the County from being a political football.

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

Rick Osorio, Merced, speaks in favor of the Bailout.

County Clerk-Registrar of Voters Karen Adams speaks in favor of the Bailout.

Following discussion and upon motion of Supervisor Kelsey, seconded by Supervisor Pedrozo, duly carried, the Board directs County Counsel to take necessary actions to seek Bailout of Section 5 of the federal Voting Rights Act and adopts Resolution 2010-142.
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

ACTION ITEM NO. 41
2010-07-27 EXECUTIVE OFFICE

The Clerk announces a Proposed Referendum on Ordinance to Clarify the Merced County Citizens Right to Vote on Expansion of Residential Areas Initiative is before the Board for consideration.

County Executive Officer Larry Combs states as a result of the July 13, 2010 discussion on the Initiative and the Reports provided, some sections of the Initiative have typographical or composition errors which appear to be easily clarified, but which the Board was not legally empowered to change prior to placing the Initiative on the ballot. Submitted is a proposed ordinance with those clarifications to the original Initiative language that has been discussed with the proponents and are acceptable because they do not change, but merely clarify the intent of the Initiative.

Director of Special Programs Robert Smith reviews the concerns raised by the initiative, which could not achieve consensus, which is whether it applies to lands within the existing Specific Urban Development Plans (SUDPs) that are designated for an urban land use but, for whatever reason, presently remain zoned for Agricultural use. He reviews the staff report outlining the Community Plans, the urban centered concept, present General Plan and the potential general plan internal consistency questions. He further states due to the ambiguities raised by the current Initiative as to its application to agriculturally zoned properties in urban designated areas, staff believes a clarifying proposal should be considered and recommends placing such a statement before the voters for consideration.

He reviews the process to place such a clarifying ordinance before the voters as set forth in California Elections Code Section 9140 and advises Staff is recommending the Board consider adopting a resolution putting a proposed ordinance before the voters as a referendum on the ballot for the regular election set for November 2, 2010 for the explicit purpose of clarifying the Save Farmland Initiative. This clarifying ordinance states that it would take effect if, and only if, the Save Farmland Initiative is approved and explicitly states that its purposes are (1) to correct errors and (2) to remove ambiguities regarding the application of the voter requirement to agriculturally zoned lands within existing SUDP boundaries.

Mr. Smith advises the proposed action, though conditional, would be a General Plan Amendment and the adoption of a General Plan Amendment by the Board, even for the purpose of placing that amendment before the voter's, is a project subject to CEQA. In this case, because the clarifying ordinance, by its explicit terms, would not change the law from what it would otherwise be, it cannot cause any effect on the environment when compared to the initiative without the clarifications. Thus, the exemption applies and Staff recommends the issuance of a Notice of Exemption from CEQA.

Chairman O'Banion states letters were received from: Sharon Hunt Dicker, LWH Farms, LLC, who commends the Board for acting to offer a clarifying ordinance affecting the Initiative currently proposed to be voted upon at the November 2010 election, and Maureen McCorry, Director San Joaquin, et al regarding concerns with the proposed referendum to clarify the Merced County Citizens Right to Vote on Expansion of Residential Areas Initiative.

Citizens for Quality Growth Allen Schoff speaks in opposition of placing the Proposed Resolution before the Board and states the County amendment is not necessary.

Associate Chancellor and Chief of Staff of the University of California Janet Young submits testimony and speaks in support of the Resolution before the Board and submits a letter from Attorney Ralph Temple, Chairman of the University LLC, in support of the Resolution.

Frank Borges, representing Mike Gallo, speaks in support of the Resolution before the Board.

County Clerk-Registrar of Voters Karen Adams speaks relative to voter turnout and possible consolidation of election.

In response to questions and concerns by the Board, Chief Deputy County Counsel Michael Calabrese responds stating the Initiative will impose the voter approval requirement where there is

a rezoning or redesignation required by the county, so when discussing taking action like a Convey and Combine, it would depend on the specifics of the action - would there be one of these county approval requirements to trigger this rezoning or redesignation, would this involve an increase in density from above 10 acres to below, and if those things would happen – potentially that kind of action could fall within voter approved requirement. He states there are specific sections of the County Zoning Code and an individual would meet specific requirements and there are other variables that would determine the kind of approval that will be needed. Ultimately, if the approval needed are rezoning or redesignation and if that will cause the property to cross the threshold from agricultural to residential, there is a potential to trigger this voter requirement.

Following further discussion, Mr. Calabrese states the key word is uncertainty. The triggering action according to the language of the Initiative is rezoning or redesignation. Rezoning is a relatively clear term but redesignation is not a term that is defined in the Initiative and these kinds of questions do give rise to uncertainty and these kinds of action could potentially trigger the approval requirement. In addition, there is uncertainty of how the courts would interpret the word designation.

County Counsel James Fincher states our Referendum tries to limit some of the exposure to litigation that would happen if the Initiative was to pass. The county has significant exposure to potential liability and the Referendum is a measure to try and eliminate that and the important point to make is that the Referendum is done due to the difficulty of the Initiative.

Mr. Fincher states for the record the Board has not taken any action to support the original Initiative. This Referendum, as brought forward by Staff, is not an endorsement of the Initiative and if the voters approve the Initiative, then the request is that this be approved to clarify and make it more workable and reduce the chance of litigation. I want to be clear this is not an endorsement and there has not been a statement from this Board to date of endorsing this. The Board merely took action as mandated by Elections Code 9116 which was to allow the initiative to go forward or adopt it immediately by ordinance and the Board chose for it to go forward by ballot.

Following a lengthy discussion, Supervisor Kelsey moves, seconded by Supervisor Pedrozo, the Board place an Ordinance before the Voters to clarify the Merced County Citizens Right to Vote on Expansion of Residential Areas and issues a Notice of Exemption from the California Environmental Quality Act for this action and includes the adopted Specific Urban Development Boundaries (SUDP) as indicated in our Staff Report which includes Delhi, Planada, the University Community and Winton as well as the SUDP adopted for Yosemite Lakes, in which the General Plan has been amended to reflect this and adopts Resolution No. 2010-143.

Following further discussion, Counsel Fincher suggests an Amendment in the language in the proposed Ordinance, Item 2. e. to add “and study areas” as stated and discussed.

Supervisor Kelsey Amends the Motion to include the addition of the language “and study areas” in the Proposed Ordinance as noted in Item 2. e. which shall read: Lands within Specific Urban Development Plans (SUDPs) “and study areas” reflected on the County’s General Plan Land Use Diagram as of the effective date, even if the implementation of such SUDP’s in whole or in part requires rezoning or redesignation actions that would otherwise be subject to the voter approval requirement of this initiative.

Supervisor Pedrozo seconds the Amendment to the Motion.

The Chairman calls for a Vote on the Amendment to the Motion. Motion carries.
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey

The Chairman calls for a Vote on the Original Motion. Motion carries.
Ayes: O'Banion, Pedrozo, Walsh, Nelson, Kelsey