

THE BOARD OF SUPERVISORS  
OF THE COUNTY OF STANISLAUS  
STATE OF CALIFORNIA

Regular Session

Tuesday

September 28, 2004

All Supervisors Present

Pledge of Allegiance to the Flag

The Chairman introduced the new CEO, Richard 'Rick' Robinson, and welcomed him to Stanislaus County. The CEO thanked the Board and noted that he looks forward, with pleasure, to working for the citizens of Stanislaus County.

Lou Santistevan, of the Health Services Agency Foundation, presented a donation to Margaret Szczepaniak, Managing Director of the Health Services Agency.

Don Peterson, Stanislaus County's Legislative Advocate, presented a legislative update to the Board.

Dave Thomas welcomed the new CEO. He spoke regarding the importation of waste from out of county for the waste-to-energy facility, and stated that this is inconsistent with the County's policy. Chairman Caruso noted that they import waste from out of county to maintain a certain tonnage at the incinerator, and that the amount of imported waste is capped. The Interim Director of DER noted that Covanta imported a total of 1500 tons, which is allowed by the contract they have with the County.

Georgiana McDonald spoke regarding the amount of waste imported from out of county that is listed in the 2003 Report. She noted a discrepancy between the amount of waste listed in the report, and the amount stated by staff. Supervisor Grover requested that a report regarding the amount of waste at the waste-to-energy facility and the landfill be brought to the Board. The CEO stated that a report would be brought to the Board within two weeks regarding this issue.

Paul/Simon unan. Adopted the consent calendar

- \*A1 Approved the minutes of 9/21/04
- \*A2a Appointed Steve McManis to the El Solyo Water District Board of Directors 2004-725
- \*A2b Appointed Ronald E. Reid to the Advisory Board on Substance Abuse Programs 2004-726
- \*A2c Appointed Jeff Gullo to the Advisory Board on Substance Abuse Programs 2004-727
- \*A2d Appointed Ron Martin to the Stanislaus County Employees Retirement Board 2004-728
- \*A3 Accepted the resignation of Debra Fahl from the Advisory Board on Substance Abuse Programs 2004-729
- \*A4 Approved request from the Department of Aging and Veteran Services for use of the Courthouse lawn on 11/11/04 for various events for veterans 2004-730
- \*A5 Set a public hearing on 10/12/04 at 9:25 a.m. to consider an Appeal of the Planning Commission's Denial of Use Permit Application #2003-36 – D.B. Truck Body and Trailer 2004-731
- \*B1 Authorized the Interim Director of DER, or her Designee, to sign the Household Hazardous Waste Grant Agreement to receive funds from the California Integrated Waste Management Board for (thirteenth cycle) FY 2004/05; authorized the Interim Director of DER, or her Designee, to administer the agreement, to execute all necessary contracts, payment requests, amendments and submit a request for bids for the expansion of the

- Household Hazardous Waste Collection Facility; and, authorized the Auditor-Controller to make the necessary financial transactions - DER 2004-732
- \*B2a Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 1219 Herndon Road, Modesto, California (CE No. 03-2144) – DER 2004-733
  - \*B2b Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 616 Lassen Avenue, Modesto, California (CE No. 03-3221) – DER 2004-734
  - \*B2c Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 620 Lassen Avenue, Modesto, California (CE No. 03-3222) – DER 2004-735
  - \*B2d Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 301, 303, 305, 307, and 309 Spencer Avenue, Modesto, California (CE No. 03-3889) – DER 2004-736
  - \*B2e Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 2521, 2513, and 0 W. Hatch Road, Modesto, California (CE No. 04-928) – DER 2004-737
  - \*B2f Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 3115 W. Whitmore Avenue, Modesto, California (CE No. 04-1055) – DER 2004-738
  - \*B2g Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 4809 Corona Way, Denair, California (CE No. 04-1112) – DER 2004-739
  - \*B2h Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 4128 Warda Avenue, Keyes, California (CE No. 04-1313) – DER 2004-740
  - \*B2i Adopted the recommendations of the Nuisance Abatement Hearing Board regarding property located at 1506 Grimes Avenue, Modesto, California (CE No. 04-1320) – DER 2004-741
  - \*B3 Authorized the Interim CEO to execute agreements with the Cities of Ceres, Oakdale, and Riverbank, to provide for the transfer of a portion of Stanislaus County’s State of California Proposition 40 – 2002 Resources Bond Act Program Funds; acknowledged that requests have been received for State of California Proposition 40 – 2002 Resources Bond Act Program Funds from the City of Ceres in the amount of \$450,000 (Per Capita Program), City of Oakdale in the amount of \$450,000 (Per Capita Program), and the City of Riverbank in the amount of \$400,000 (per capita and Roberti-Z’Berg-Harris Programs); authorized the transfer of \$450,000 to the City of Ceres to be used pursuant to the agreement; authorized the transfer of \$450,000 to the City of Oakdale to be used pursuant to the agreement; authorized the transfer of \$379,000 of Stanislaus County’s State of California Proposition 40 – 2002 Resources Bond Act Per Capita Program Funds, and \$21,000 of 2002 Resources Bond Act Roberti-Z’Berg-Harris Urban Open Space and Recreation Grant Program Funds to the City of Riverbank to be used pursuant to the agreement; authorized the Interim CEO, or Designee, to sign the amendments to the grant contracts with the State of California Department of Parks and Recreation for the Proposition 40 – 2002 Resources Bond Act Per Capita Grant Program and the Roberti-Z’Berg-Harris Block Grant Program reflecting Stanislaus County’s amended grant amounts; and, approved and adopted resolutions required by the State of California Department of Parks and Recreation for the transfer of Stanislaus County’s State of California Proposition 40 – 2002 Resources Bond Act Program Funds to the Cities of Ceres, Oakdale, and Riverbank – Parks & Recreation 2004-742
  - \*B4 Approved the Probation Department’s Temporary Aid to Needy Families (TANF) Expenditure Plan for FY 2004/05 – Probation 2004-743
  - \*B5 Approved the Amendments to Article 13 of the Stanislaus County Employees Retirement Board (StanCERA) Bylaws regarding the Retiree Health Insurance Policy BD-36-A-8 2004-744

- \*B6 Authorized the distribution of \$157,945.42 in Claims for Excess Proceeds from the 3/5/03 Sale of Tax Defaulted Property; authorized the Auditor-Controller to issue checks based on the Claims for Excess Proceeds , as submitted in compliance with the requirements of Revenue and Taxation Code §4675; and, authorized the Auditor-Controller to transfer the balance of excess proceeds of \$18,161.22 to the County General Fund – T/TC 2004-745
- \*B7 Accepted the Stanislaus County Treasury Pool’s July, 2004 Monthly Investment Report as prepared by the Stanislaus County Treasurer/Tax-Collector’s Office and reviewed for conformity with State Law and Local Investment Policy by the Stanislaus County Treasury Pool Oversight Committee; and, authorized the Chairman to sign that the report has been reviewed and accepted – T/TC 2004-746
- \*B8 Approved establishing a budget for the 2004 Juvenile Accountability Grant for Enhanced Programs and Services to Curb Criminal Behavior of Youthful Offenders; directed the Auditor-Controller to establish Appropriations and Estimated Revenue in the amount of \$66,828; and, directed the Auditor-Controller to establish a new budget organization unit within the existing fund for this grant program – Probation 2004-747
- \*B9 Approved an agreement with the Modesto Radio Control Club to use, operate, and maintain the radio control glider/electric airplane field and area at Modesto Reservoir from 10/1/04 to 9/30/05; authorized the Purchasing Agent to sign the agreement with Modesto Radio Control Club; and, approved adjusting the annual day use vehicle permit fee to a \$25 charge for all Modesto Radio Control Club Members, in exchange for club members’ assistance with the maintenance of the radio control glider/electric airplane field and area at the Modesto Reservoir – Parks & Recreation 2004-748
- \*B10 Accepted the County of Stanislaus Tobacco Endowment Fund Annual Report for fiscal year ending 6/30/04, as prepared by the Stanislaus County Office of the Treasurer/Tax-Collector; and, authorized the Chairman of the Board to sign that the report has been reviewed and accepted – T/TC 2004-749
- \*B11 Approved the labor agreement between the County and the California Association of Interns and Residents/Committee of Interns and Residents (CIR) and, approved implementing the provisions contained within the tentative agreement reached between the County and CIR representing the Resident Physicians’ Bargaining Unit 2004-750
- \*D1 Approved the Salida Park account expenditure to Grover Landscape Services, Inc.; approved the Salida Park account expenditure to SCM Corporate Group; authorized the Auditor-Controller to issue a warrant in the amount of \$57,273.80 to Grover Landscape Services, Inc.; and authorized the Auditor-Controller to issue a warrant in the amount of \$2,863.69 to SCM Corporate Group – Planning 2004-751
- \*D2 Rescinded all or a portion of Williamson Act Contract #1972-916 and #1973-1226 (Minnear Road, Westley area), and approved new contract pursuant to Minor Lot Line Adjustment Application 2004-47 (Jon Maring) and authorized the Planning Director to execute new contracts; finds the new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years; finds there is no net decrease in the amount of the acreage restricted; in cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts; finds at least 90 percent of the land under the former contract or contracts remains under the new contract or contracts; finds after the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in §51222; finds the lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts; finds the lot line adjustment is

not likely to result in the removal of adjacent land from agricultural use; finds the lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan - Planning

2004-752

Mayfield/Paul unan. **B12** Approved the tentative agreement between the County and the United Domestic Workers of America (UDW), representing the In-Home Supportive Services (IHSS) workers; authorized CSA to direct the State Controller to implement the salary provisions agreed to; and, authorized the Auditor-Controller to make the necessary adjustments to the CSA budget, program services, and support

2004-753

Mayfield/Simon unan. **B13** Accepted the First Annual In-Home Supportive Services (IHSS) Advisory Committee Report and Consumer and Provider Satisfaction Surveys

2004-754

**Recessed at 10:24 a.m.**

**Reconvened at 10:33 a.m.**

Simon/Grover unan. **B14** Accepted the responses to the 2003-2004 Stanislaus County Civil Grand Jury Final Report; authorized the Chairman to forward the responses to the Presiding Judge of the Superior Court; directed the CEO to ensure that the recommended actions approved by the Board of Supervisors be followed and completed by each County department and report back to the Board as appropriate; and, the Board made the following **amendments**: 1) changed the response to Finding #11 of Case No. 04-47 (Stanislaus County CEO) from “Disagree” to “Agree” and added the language: “Employee agreement with the former CEO allowed for personal investments and other activities associated to his personal affairs. Otherwise any other employment activities had to be approved by the Board of Supervisors through separate action”; 2) directed staff to research and return with a policy defining the relationship between the Board of Supervisors and elected officials, including identifying procedures for alleged misconduct; 3) directed staff to correct the typographical errors on pages 13 and 25 of the response; 4) the Board acknowledged that the County did not have adequate auditing procedures and oversight functions in place over the Special Projects fund, Chief Executive Officer credit card controls and other funds directly controlled by the Chief Executive Officer. The Board of Supervisors has taken a number of critically important actions this past year to ensure that the highest level of accountability is now in place. New policies of travel expenses, credit card receipts, the elimination of the Special Projects budget, addition of new internal auditors and a more public audit report system has been implemented; and, 5) it was noted that when CEO Wilson resigned, the Board of Supervisors had no knowledge of matters which were discovered in subsequent audits. At the time of the amendment to an earlier employment agreement, July 22, 2003, there was no legal cause to terminate the CEO’s employment agreement

M-39-J-3 2004-755

Grover/Simon unan. **9:25am** Conducted the required public hearing; introduced, waived the readings and adopted Ordinance C.S. 895, a Redevelopment Ordinance extending the Redevelopment Plan for the maximum period allowed pursuant to Health and Safety Code §33333.2(C)

ORD-54-S-8 2004-757 & 2004-758

Mayfield/Paul unan. **9:30am** Finds that Planning and Community Development Department Ordinance Amendment (OA) #2004-02, relating to large scale retail business is exempt of the provisions of CEQA; and introduced, waived the readings, and adopted Ordinance C.S. 896, Planning and Community Development OA #2004-02 - Planning

ORD-54-S-8 2004-759 & 2004-760

Simon/Mayfield unan. **9:35am** Finds that Williamson Act Cancellation No. 2004-02 and Use Permit Application 2003-26, Forrest Aarvig, a request to cancel Williamson Act Contract #77-2684 and to construct two single-family dwellings, one each, on two separate parcels (previously part of a four parcel subdivision recorded on October 3, 1967) containing approximately 3.5+ acres in the A-2-40 (General

Agriculture) zoning district, located on the southeast corner of Dunn Road and Kiernan Avenue, in the Modesto area to be categorically exempt from the California Environmental Quality Act (CEQA) and order the filing of the notice of exemption; accepted the cancellation value of the subject property as determined by the County Assessor to be \$905,000; certified to the County Auditor the Cancellation fee which must be paid as deferred taxes to be 12 ½ % of that value or \$113,125; finds that the cancellation is de minimis for the purposes of the Department of Fish and Game; finds that, based on all evidence presented including discussions in the staff report, in the landowners statements and application materials, the letters from Department of Conservation and obtained in the public hearing, and based on the whole of the record, that the cancellation is consistent with the purposes of the California Land Conservation Act and that cancellation is in the public interest; tentatively approved cancellation of Williamson Act Contract #77-2684 subject to payment of the cancellation fee; if the fee is not paid within one year of the filing of the Certificate of Tentative Cancellation, the fee shall be re-computed as provided by State law; directed the Clerk of the Board to record a Certificate of Tentative Cancellation within 30 days of this action; directed the clerk of the board, within 30 days of the action, to publish the notice of the decision, pursuant to Government Code, and to deliver a copy of the published notice of the decision to the Director of Conservation; and approved Use Permit Application #2003-26, Forrest Aarvig, subject to the Conditions of Approval – Planning 2004-761

Paul/Simon unan. **9:40am** Finds the project for Specific Plan Amendment #2002-01 and Tentative Map Application #2002-05, Diablo Grand Unit 2A, a request to create ninety-four residential lots of 5,000 square feet and nine residential lots of 20, 000 square feet as the Diablo Grande Unit 2A subdivision within the adopted Diablo Grande Specific Plan area, and to amend the SP1 zoning district to add 5,000 and 8,000 square feet lot categories to the Single Family Residential district (R-1) found in §4.02 of the Diablo Grande Specific Plan and to revise the preliminary Development Plan map to provide areas of construction of these two housing types (total number of housing units in the SP1 zoning district will be reduced from 2,038 to 2,012) to be de minimis for the purposes of collection of Fish and Game fees pursuant to California Code of Regulations, §753.5, by adopting the findings of fact contained in the attached certificate of fee exemption, those findings being based on the analyses presented in the initial study; ordered the filing of the certificate of fee exemption with the Stanislaus County Clerk-Recorder's office; adopted the mitigated Negative Declaration pursuant to CEQA Guidelines §15074(b), by finding that on the basis of the whole record, including the initial study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the mitigated negative declaration reflects Stanislaus County's independent judgment and analysis; adopted the mitigation monitoring plan pursuant to CEQA Guidelines §15074(d); ordered the filing of a notice of determination with the Stanislaus County Clerk-Recorder's office pursuant to Public Resources Code §21152 and CEQA Guidelines §15075; finds that: (a) the specific plan amendment will maintain a logical land use pattern without detriment to existing and planned land uses, (b) the County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service, (c) the amendment is consistent with the general plan goals and policies, and (d) the proposed revisions to the Diablo Grande Specific Plan is consistent with the Specific Plan General Plan designation; finds that none of the findings requiring denial of a tentative map can be made as follows: (a) that the proposed map is not consistent with applicable general and specific plans, (b) that the design or improvements of the proposed subdivision is not consistent with applicable general and specific plans, (c) that the site is not physically suitable for the type of development, (d) that the site is not physically suitable for the proposed density of development, (e) that the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, (f) that the design of the subdivision or type of improvements is likely to cause serious public health problems, and (g) that the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision - in this

connection the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public, this subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision; the Board finds that the project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements; approved Specific Plan Amendment Application #2002-01, and Vesting Tentative Subdivision Map Application #2002-05 - Diablo Grande Unit 2A allowing for the development of 94 single-family lots of approximately 5,000 square feet, and 9 single-family lots of approximately 20,000 square feet subject to the Conditions of Approval and Mitigation Monitoring Plan; and, **amended** the item to also approve the Planning Commission's Recommendations Nos. 1-10 found on pages 7, 8 and 9 of the staff report to the Board – Planning 2004-762

Grover/Mayfield unan. **D3** Directed Planning and Community Development staff to finalize a response for the Chairman's signature, to US Fish and Wildlife Service's proposal to designate critical habitat for the California Tiger Salamander 2004-756

**Corr 1** Referred to the Agricultural Commissioner and the Chief Executive Office - Emergency Services, a letter from the State of California Office of Emergency Services regarding the U.S. Department of Agriculture granting a disaster designation for the County of Merced and the contiguous counties of Fresno, Madera, Mariposa, San Benito, Santa Clara, Stanislaus and Tuolumne due to agriculture losses caused by drought that occurred March 1, 2004 through April 30, 2004.

**Corr 2** Acknowledged receipt of claim and referred to the CEO-Risk Management Division the following claim: Anita Peterson.

Grover/Paul unan. **Legislative A.** Received a report from staff on the recommendations of the California Performance Review (CPR) Commission, and approved a request from the Director of Child Support Services to provide comments to the CPR Commission 2004-763

The Chairman announced that today between 4:00 p.m. and 6:00 p.m., there will be a Public Reception for the new Chief Executive Officer Richard Robinson, at the Tenth Street Place 1st Floor Lobby and Plaza area.

Adjourned at 1:00 p.m.

ATTESTED: CHRISTINE FERRARO TALLMAN, Clerk  
of the Board of Supervisors  
of the County of Stanislaus  
State of California

BY: ELIZABETH A. KING, Assistant Clerk of the Board of Supervisors  
(The above is a summary of the minutes of the Board of Supervisors. Complete minutes are available from the Clerk of the Board's Office.)