

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

Regular Session

Tuesday

July 18, 2006

Supervisor Grover Absent

Pledge of Allegiance to the Flag

Kristie Camarillo made a presentation regarding 7/22/06 as the Day of the American Cowboy and Grand National Champion Leo Camarillo accepted the proclamation from the Board.

Probation employees Jeffrey Brandon and Ben Wheeler accepted the resolution proclaiming the week of 7/16/06-7/22/06 as Probation Services Week.

Fred Herman voiced concerns regarding censorship of the library programs.

Joan Patterson, member of Modesto Friends of the Library, voiced concerns regarding the cancellation of the belly-dancing program last April by the Board.

Sandra McDowell, member of Patterson Friends of the Library, questioned whether the program would have been cancelled if it were a different type of dancing other than belly dancing.

Theresa Herbeck, from the Local Chapter of the ACLU, also spoke regarding the cancellation of the belly-dancing program at the Library, and she read a letter from the ACLU Attorney Ann Brick regarding this issue.

Pat Egengerger spoke regarding the cancellation of specific library programs and stated that State law does not allow the CEO to cancel Library programs. She filed with the Clerk of the Board a petition regarding this issue.

Al Massey voiced his support of the CEO and Board's decision to cancel the belly-dancing program at the Library.

CEO Rick Robinson responded to public comments regarding the canceled program at the Library.

Supervisor O'Brien noted that it was not censorship on the part of the CEO or the Board, when the decision was made to cancel the speed dating program and the belly-dancing program.

Supervisor DeMartini also spoke regarding the appropriateness of Library programs and noted that the Board is obligated to spend tax dollars responsibly.

County Counsel Mick Krausnick reported that the cases referenced in the letter from the ACLU do not support the ACLU's claim that cancellation of the belly dancing demonstration was a violation of free speech. He noted that he reviewed this issue and that there has not been any violation of the First Amendment.

The Chairman directed the CEO to continue to meet with the Librarian and County Counsel to develop a policy concerning Library programs, and to return to the Board with the policy.

Mayfield/O'Brien (4-0)(Grover absent) Adopted the consent calendar after removing from the agenda item ***B1c** Approval to Adopt the Recommendations of the Nuisance Abatement Hearing Board Regarding 2837 Eucalyptus Avenue, Patterson, CA (CE No. 06-5)

- *A1** Approved the minutes of 7/11/06
- *A2** Adopted and waived the second reading of Ordinance C.S. 963 relating to the regulation of sales by roadside vendors ORD-55-1 2006-560
- *A3** Appointed Michael Kummer to the Hazardous Waste Management Advisory Committee 2006-561
- *A4** Accepted the resignation of Louis F. Bricchetto from the OID Board of Directors 2006-562
- *A5** Approved the request from Mid-Valley Water Ski Club for use of the back dam area of the Modesto Reservoir on 7/22/06 for a National Ski League Tournament 2006-563
- *A6a** Approved a request to consolidate with the 11/7/06 Gubernatorial General Election from the City of Oakdale for a General Municipal Election 2006-564
- *A6b** Approved a request to consolidate with the 11/7/06 Gubernatorial General Election from the Chatom Union School District for the issuance of a school bond election 2006-565
- *B1a** Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 1201 Pelton Avenue, Modesto, CA (CE No. 06-328) – DER 2006-566
- *B1b** Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 201 Cowan Street, Modesto, CA (CE No. 04-323) – DER 2006-567
- *B1d** Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 3512 E. Hawkeye Avenue, Turlock, CA (CE No. 05-2082) – DER 2006-568
- *B1e** Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 2142 W. Monte Vista Avenue, Modesto, CA (CE No. 06-341) – DER 2006-569
- *B2** Adopted the decision of the Nuisance Abatement Hearing Board regarding the cost accounting to abate the nuisance at 315 E Street, Empire, CA (CE No. 05-1701) – DER 2006-570
- *B3** Set a public hearing on 8/15/06, at 6:50 p.m., to introduce and waive the first reading of an ordinance to establish a new fee on tonnage of food processing by-products utilized within Stanislaus County to be collected by DER to fund the Food Processing By-Products Research Project – DER ORD-55-2 2006-571
- *B4** Authorized the issuance of a request for proposals for Uniformed Security Guard Services for the 12th Street Office Building and Parking Garage – CEO 2006-572
- *B5** Approved the renewal of three contracts with the California Department of Education (CDE) for administration of the Child Care and Development Block Grants; and, authorized the CSA Director, or his Assistant Director Designee, to sign the contracts to add services and payments for services, up to \$100,000 per agreement – CSA 2006-573
- *B6** Approved the agreement extension for FY 2006/07 with PCHelp Ltd. to provide software consulting services; and, authorized the Purchasing Agent, or her Designee, to sign and execute the FY 2006/07 agreement extension and future extensions in accordance with the terms of the existing agreement in an amount not to exceed \$90,000 annually – DER 2006-574
- *C1** Approved the Disadvantaged Business Enterprise (DBE) program and the annual goal for Federal FY 2006/07; authorized the CEO to sign the disadvantaged business enterprise race-neutral implementation agreement; and, authorized the CEO to sign the local agency DBE annual submittal form 2006-575
- *D1** Set a public hearing on 8/22/06, at 9:15 a.m., to consider Rezone Application #2005-15, Carmax – Modesto (APNs: 082-009-016, 017, 018, & 019), a request to rezone 9.56 acres of two expired PD (Planned Development) zones, located on four parcels, with a new PD zone to allow construction and operation of an automobile sales and service dealership; proposed building coverage will be approximately one acre of the site and will require a parcel merger; the project is located at the northeast corner of McHenry Avenue (SR 108)

O'Brien/Mayfield (4-0)(Grover absent) **6:40 p.m.** Approved tentative cancellation of Williamson Act Contract #78-3286 and approved Tentative Parcel Map Application #2005-39, Clipper Ranch, creating three parcels of 3.07-acres each from a 9.21 gross acre site in the A-2-3 (General Agriculture) zoning district; (1) finds the project is not De Minimis for the purposes of collection of Fish and Game Fees pursuant to California Code of Regulations 14 §753 and California Fish and Game Code §711.4, and require the payment of \$1,250 to the Department of Fish and Game; (2) adopted the 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 Negative Declaration reflects Stanislaus County's independent judgment and analysis; (3) finds that: (a) the proposed map is consistent with applicable general and specific plans as specified in §65451, (b) the design or improvement of the proposed subdivision is consistent with applicable general and specific plans, (c) the site is physically suitable for the type of development, (d) the site is physically suitable for the proposed density of development, (e) the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, (f) the design of the subdivision or type of improvements is not likely to cause serious public health problems, (g) the design of the subdivision or the type of improvements will not 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; (4) finds that, based on the discussion above and the whole of the record: (a) a notice of non-renewal has been served, (b) removal of adjacent land from agricultural use is unlikely, (c) the alternative use is consistent with the General Plan, (d) discontinuous patterns of urban development will not result, and (e) there is no proximate noncontracted land which is available and suitable for the use proposed on the contracted land or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land; (5) accepted the Cancellation Value of the subject property as determined by the County Assessor to be \$970,000; (6) certify to the County Auditor the Cancellation Fee which must be paid as deferred taxes to be 122% of that value or \$121,500; (7) 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; (8) gives tentative approval of Cancellation of Williamson Act Contract #77-2684 subject to payment of the cancellation fee; unless the fee is paid within one year of the filing of the Certificate of Tentative Cancellation, the fee shall be re-computed as provided by State Law; (9) directed the Clerk of the Board to Record a Certificate of Tentative Cancellation within 30 days of this action; (10) directed the Clerk of the Board, within 30 days of the Board action, to publish 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; (11) approved Tentative Parcel Map Application #2005-39; subject to completion of Williamson Act Contract Cancellation 2005-01 - Clipper Ranch; and, **amended** the Conditions of Approval to add Condition No. 28 to read as follows: " The existing easement shall be fenced to OID standards prior to the sale of any new parcels created by this project" – Planning 2006-581

Mayfield/O'Brien (4-0)(Grover absent) **6:45 p.m.** The Board finds that the public interest and necessity require the adoption of a Resolution of Necessity to initiate and complete eminent domain proceedings to acquire property from Jesse L. Welch, Sr., et. al., for the construction of the Albers/Geer/SR 132 Intersection Improvements; finds that the proposed project is planned or located in the manner that will be

most compatible with the greatest public good and the least private injury; finds that the property described in the Resolution is necessary for the proposed project; finds that the offer required by §7267.2 of the Government Code has been made to the owners of record of the property to be acquired; adopted a Resolution of Necessity; and, authorized County Counsel to initiate eminent domain proceedings to acquire the affected property– PW 2006-582

Mayfield/O'Brien (4-0)(Grover absent) **B7** Accepted the Elections Office certification of the results of the initiative petition on the citizens rights to vote on expansion of residential areas and pursuant to Sections 9118(c) and 9111 of the Elections Code ordered a study of the impacts of the proposed initiative; and, directed County Counsel to bring back an agenda item on 7/25/06 setting forth the date the report can be brought back to the Board and the public and identify the County agencies and the topics that will be included in the report – Clerk Recorder 2006-577

Mayfield/O'Brien (4-0)(Grover absent) **B8** Accepted the Advisory Board on Substance Abuse Programs Annual Report – BHRS 2006-578

Mayfield/O'Brien (4-0)(Grover absent) **B9** Accepted the Mental Health Board Annual Report – BHRS 2006-579

O'Brien/DeMartini (4-0)(Grover absent) **D2** Finds pursuant to Government Code §56425, staff has met and conferred regarding the expansion of the City of Oakdale Sphere of Influence; finds that the City of Oakdale's proposed sphere of influence expansion promotes logical and orderly development; and, directed the CEO to notify LAFCO of the Board's finding – Planning 2006-580

Corr 1 Referred to the Agricultural Commissioner and Sealer of Weights and Measures and to the Office of Emergency Services, a letter from the Governor's Office of Emergency Services regarding the U.S. Small Business Administration's declaration of Stanislaus County as a disaster area as a result of the unprecedented rainfall and severe weather conditions that occurred from 12/17/05 through 4/26/06.

Corr 2 Referred to the CEO, letters regarding the appropriateness of scheduled library programs at the Stanislaus County Libraries from the following organizations: the California Library Association, the Stanislaus County Library Advisory Board, Friends of the Oakdale Library and the American Civil Liberties Union.

Corr 3 Referred to the CEO-Office of Emergency Services, a letter from the Governor's Office of Homeland Security regarding the timeliness of expenditures and federal reimbursements of grants received from the United States Department of Homeland Security.

Corr 4 Acknowledged receipt of claims and referred to the CEO-Risk Management Division the following claims: Peggy Blacksher and George J. Faustino.

Adjourned at 8:35 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.)