

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

Regular Session
All Supervisors Present
Pledge of Allegiance to the Flag

Tuesday

October 23, 2007

Mayfield/Grover unan. Adopted the consent calendar

- *A1 Approved the minutes of 10/16/07
- *A2a Adopted and waived the second reading of Ordinance C.S. 1013 amending §11.04.040 of the Stanislaus County Code, adding a speed zone on Hackett Road in the Modesto area – PW
ORD-55-D-9 2007-825
- *A2b Adopted and waived the second reading of Ordinance C.S. 1014 increasing the time periods to apply for property tax disaster relief – Assessor
ORD-55-D-10 2007-826
- *A3 Proclaimed 2007 as the 30th Anniversary of the Food Stamp Program 2007-827
- *A4 Proclaimed the Month of November 2007 as Adoption and Permanency Awareness Month
2007-828
- *A5 Appointed Supervisor Dick Monteith as the Director and Supervisor Jeff Grover as the Alternate Director to the California State Association of Counties Board of Directors for 2008
2007-829
- *B1 Adopted the decision of the Nuisance Abatement Hearing Board regarding nuisances at 2233 Kenneth Street, Modesto, CA (CE No. 07291) – DER
2007-830
- *B2a Adopted the decision of the Nuisance Abatement Hearing Board regarding the cost accounting to abate the nuisance at 1949 Crows Landing Road, Modesto, CA (CE No. 06-642) – DER
2007-831
- *B2b Adopted the decision of the Nuisance Abatement Hearing Board regarding the cost accounting to abate the nuisance at 120 Barozzi Avenue, Modesto, CA (CE No. 06-271) – DER
2007-832
- *B3 Approved receipt of the FY 2007 State Homeland Security Grant from the State Office of Homeland Security to enhance local Homeland Security efforts; directed the Auditor-Controller to establish a new Special Revenue Fund Budget Unit in the amount of \$1,238,699 and establish appropriations consistent with the Budget Journal, rolling over funds at fiscal year; and, authorized HSA to administer the Metropolitan Medical Response System Program - OES/Fire Warden
2007-833
- *B4 Approved the CEO-OES to participate in the Public Safety Interoperable Communications Grant Program; approved the Governing Body Resolution; and, authorized the CEO to sign a letter acknowledging participation in the grant process - OES/Fire Warden
2007-834
- *B5 Authorized the Director of DER, or her Designee, to accept and sign the grant agreement with the Governor’s Office of Emergency Services for the Hazardous Materials Emergency Preparedness Grant in the amount of \$30,000; authorized the Director of DER, or her Designee, to enter into a contract with a consultant to provide services related to the preparation of the Stanislaus County Area Plan Update and Revision; and, authorized the Auditor-Controller to increase appropriations and estimated revenue in the amount of \$30,000 and as detailed in the Budget Journal Form – DER
2007-835
- *C1 Adopted the plans and specifications for the Pirrone Road Improvement Project and set the bid opening date and time for 11/7/07 at 2:30 p.m.; directed the Clerk of the Board to publish a notice inviting bids for the project as required by law and set 11/7/07, prior to 2:30 p.m., as

- the deadline for submission of bids; and, directed the Public Works Department staff to mail a notice inviting bids to trade journals as required by law – PW 2007-836
- *C2 Finds that Ordinance C.S. 1015 is not subject to the CEQA (Public Resources Code, §2100 et. seq.); and, introduced and waived the first reading of Ordinance C.S. 1015 amending §11.08.020 of the Stanislaus County Code, amending a no parking zone on Crows Landing Road in the Modesto area – PW ORD-55-D-11 2007-837
 - *C3 Finds that Ordinance C.S. 1016 is not subject to the CEQA (Public Resources Code, §2100 et. seq.); and, introduced and waived the first reading of Ordinance C.S. 1016 amending §11.08.020 of the Stanislaus County Code, adding a no parking zone on Toomes Road in the Salida area – PW ORD-55-D-12 2007-838
 - *D1 Rescinded all or a portion of Williamson Act Contract #1978-3225 (Goodwin Road, East of Empire) and approved a new contract pursuant to Minor Lot Line Adjustment 2007–20, Ronald Martella 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; and, 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 2007-839

Monteith/Grover unan. **B6** Accepted the Children and Families Commission's 2006-2007 Annual Report 2007-840

Recessed at 10:40 a.m.

Reconvened at 10:50 a.m.

Grover/DeMartini (3-1)(Monteith opposed)(Mayfield abstained) **9:15 a.m.** Conducted the public hearing; based upon the staff report, presentations by staff including PowerPoint presentations, all comments received during the public hearing including comments made by consultants, all testimony received during the public hearing, and all materials that were supplied to the Board and were taken into consideration in making the decision, the Board upheld the Planning Commission decision and denied the appeal of the Planning Commission's decision and approved Use Permit Application #2002-30, Salida Hulling Association, a request for an almond hulling and shelling facility on approximately 50.42 acres in the A-2-40 (General Agriculture) zoning district located on the northeast corner of State Route 132 (Maze Boulevard) and Dakota Avenue intersection, in the Modesto area; the Board finds that sufficient information has been received to support the adoption of the Final EIR; the Board finds that there is substantial evidence to support the conclusion set forth in the EIR and its adequacy; the Board finds that the EIR for this project evaluated several different alternatives, including a no project alternative, alternative site design and a hypothetical offsite alternative and that the alternative analysis meets the requirements of CEQA and that the Board has taken into consideration all of the alternatives and found that the proposed project location at the northeast corner of State Route 132 and Dakota Ave is

appropriate; the Board independently reviewed the Final EIR and finds that the EIR in the Board's opinion meets all the requirements of CEQA; the Board finds that the project assists the County in implementing the goals and policies of the General Plan and the Agricultural Element; the Board finds and adopts Staff Recommendations Nos. 1-9 located on pages 2 and 3 of the staff report to the Board as follows: 1) certified that the Final Environmental Impact Report (EIR) (SCH#2002102074) for this project has been prepared and circulated for public review and comment as required by the California Environmental Quality Act (CEQA), Public Resources Code §21000 et seq., and the CEQA Guidelines, California Code of Regulations, Title 14, §15000 et seq.; 2) finds the Final EIR responded to the public comments submitted during the review period pursuant to CEQA, the CEQA Guidelines, and the County's Rules and Procedures for the implementation of CEQA; 3) finds the Planning Commission and Board of Supervisors have reviewed and considered the information contained in the Draft and Final EIR for the Salida Hulling Association project and that the EIR reflects the independent judgment of the County; 4) adopted the attached Findings including Statement of Overriding Considerations concerning unmitigated significant impacts; 5) adopted the mitigation monitoring program with which all future development associated with the Salida Hulling Association project shall comply; 6) 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; 7) finds that the project is consistent with the overall goals and policies of the Stanislaus County General Plan; 8) finds that: (a) the establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County; (b) the use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district; (c) the use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district; uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping; and, (d) the use will not result in the significant removal of adjacent contracted land from agricultural or open-space use; and, 9) approved Use Permit Application #2002-30 - Salida Hulling Association, subject to the attached Conditions of Approval/Mitigation Measures; in addition the Board adopted the three additional findings proposed by the applicant that were submitted to the Board as follows: (1) the proposed project is consistent with the County General Plan, and is a Tier One use in the A-2-40 Zone; all findings necessary for approval can be made and supported by substantial evidence in the Record (applicant's written presentation, evidence of comparable hullers, Board members' personal observations and experience); the project is of average size in relation to hullers recently constructed in Stanislaus County and other counties in the central valley (Final EIR, information submitted by applicant); the board is aware of several hullers, including Howser's Almond Shelling and Golden West Nuts, which operate in close proximity to adjacent, contiguous residences, without adverse impacts on the health, safety and welfare of residents, the neighborhood or surrounding properties (information submitted by applicant, letter from City of Ripon Code Compliance Officer, Board members' personal observations and experience); other hullers, including Howser's Almond Shelling and Golden West Nuts, do not incorporate the setbacks, large landscaped buffer, berms, fencing and other visual screening which will be required of Salida Hulling (information and photos submitted by applicant, Final EIR, board members' personal observations and experience); the final EIR contains mitigation measures which mitigate all but three minor impacts of the project (Final EIR); the project is a Tier One agricultural use, which promotes vertical integration of agriculture, consistent with the goals and policies of the general plan (Staff Report, Stanislaus County General Plan, testimony of Paul Wenger to Planning Commission); while neighbors and Friends of the Central Valley have expressed environmental concerns,

there is no evidence that the proposed use will be detrimental to health, safety, welfare of persons, neighborhood or surrounding properties; the Board notes that this finding is designed primarily to ensure that non-agricultural zone, do not conflict with adjacent agricultural uses; the bulk of the information submitted to the board deals with alleged inconsistencies with adjacent residential land uses; the proposed project is an agricultural processing facility, which will process almonds from the balance of the site, from adjacent SHA member lands, and from other lands owned and/or operated by SHA members; there are several hullers within the immediate area of the huller, including Howser's Almond Shelling (1.8 miles) and Mc Manis Hulling (1.5 miles) which operate without any apparent or reported land use conflicts; therefore, the project is consistent with agricultural uses of other property in the area, and not detrimental to those uses; (2) the proposed project is a compatible use under the Williamson Act. (applicant's written presentation, evidence of comparable hullers, Board members' personal observations and experience); the County has allowed other huller/shellers to be constructed on Williamson Act property in the past (list of hullers submitted by applicant); the evidence presented to the Board demonstrates that virtually all of the surrounding counties consider huller/shellers to be compatible uses under the Williamson Act; these counties do not interpret Government Code §51238.1 or their own ordinances to restrict huller/shellers to those which process products from the same or contiguous properties (summary presented by applicant); the proposed project will process products from the subject parcel (the balance of which will be planted in almonds), as well as products from adjacent orchards (15 accounts within 2 1/2 miles of the facility, 60 accounts within 5 miles of the facility) and orchards further from the subject property; §51238.1 and the County ordinance should not be interpreted to exclude essential agricultural processing from occurring on contracted parcels (Applicant's testimony, Table 1-7 Final EIR); the application and EIR has been referred to the California Department of Conservation, which has expressed no objection to the proposed use (Staff Report); (3) the EIR prepared for the project satisfies the requirements of the California Environmental Quality Act (Draft and Final EIR, oral and written presentations by County Staff, EIR author, applicant representatives, members of the public, Staff Report and addenda thereto); the essential informational purposes of CEQA have been satisfied; the EIR is complete and accurate, and evaluates environmental impacts at an appropriate level of detail, given the nature and scope of the project; project alternatives were properly evaluated; the failure to study alternatives involving members' lands was not a violation of CEQA for reasons stated in the EIR and the applicant's letter dated 10/20/07; the Responses to Comments demonstrate a good faith effort to deal with the issues raised; many comments by project opponents are re-submittals of comments on previous EIR, without recognizing the changes in the document; the late submittal of detailed criticisms of the Final EIR should have been submitted to the Planning Commission, but in any event, the Board is satisfied with the Responses to Comments, and the explanations provided by the EIR author at the Board hearing of 10/23/07; the proposed traffic signal at Highway 132/Dakota Avenue is a feasible mitigation measure; the EIR traffic consultant, as well as the County's own Public Works Department, has confirmed that the proposed traffic signal at the intersection of Highway 132 and Dakota Avenue is a feasible mitigation measure; these experts have also correctly noted that the timing of the installation of the traffic signal is subject to the review and permitting requirements of Caltrans; Caltrans staff, as noted in the Final EIR, has not objected to the traffic analysis or the signal requirement, and has agreed that the signal warrant analysis should wait until after project approval, as part of the encroachment permit process; the Board finds that this is not "deferred mitigation", as argued by FOCV; the Findings and Statement of Overriding Considerations are supported by substantial evidence in the whole Record, including the Final EIR, public testimony and oral and documentary evidence submitted during hearings before the Planning Commission and the Board of Supervisors; the Board finds that the EIR represents the independent judgment of the Board of Supervisors, and that the preparation of the EIR at the request of the applicant did not violate CEQA for the following reasons: the County's 1989 policy requiring that the County directly retain environmental professionals for the preparation of environmental impact reports pre-dates California case law establishing that project applicants may do so, provided that the Final EIR reflect the independent

judgment of the Lead Agency; the County has permitted applicants to directly retain qualified environmental professionals to prepare environmental documents on numerous occasions in the past; County staff exercised a high degree of control over the preparation of the EIR for the Salida Huling project; InSite Environmental Inc. has prepared a detailed and adequate EIR in this case, and both the Planning Commission and Board of Supervisors have carefully reviewed and exercised their independent judgment with respect to the contents of the Final EIR; and, County Staff had originally recommended a Negative Declaration for the Salida Huling project; the EIR was subsequently requested by the applicant; the Board **amended** Condition of Approval No. 1 to read ‘This use shall be conducted as described in the application and supporting information (including the plot plan, landscape plan, environmental impact report, technical analysis, and project description) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.’; the Board **amended** the last sentence of Condition of Approval No. 13 to read as follows: ‘These road improvements are mitigation measures that shall be constructed prior to the final and/or occupancy of the almond huller facility except for signalization, which will be constructed upon approval of a Signal Warrant by Caltrans, and the applicant shall deposit the full cost of the signal with the County prior to the occupancy or operation of the project.’; and, the Board **added** Condition of Approval No. 28(b) as follows: ‘The daily import/export activity (as it relates to Table 16-5 in the EIR) shall not exceed 56 trucks, or 112 total trips, and Salida Huling shall maintain records of total import and export trucks, which shall be available for inspection and verification by County staff during normal business hours’ – Planning 2007-842

Recessed at 1:23 p.m.

Chairman O’Brien left at 1:23 p.m.

Reconvened at 1:26 p.m.

Monteith/Grover (4-0)(O’Brien absent) **B7** Approved the Asset Purchase Agreement for the sale of the Stanislaus Behavioral Health Center, Psychiatric Inpatient Hospital to Doctors Medical Center, effective 11/01/07; authorized the CEO to complete and execute the List of Schedules and Exhibits and other documents necessary for the transaction to be completed; authorized the CEO and the Director of BHRS to execute a Settlement and Release Agreement for the past and on-going Disproportionate Share Hospital (DSH) funding; authorized the CEO and the Director of BHRS to negotiate and execute a Physicians Services Agreement for the provision of Psychiatrists Services to Doctors Medical Center based on the recommended terms outlined in this report; authorized the CEO and the Director of BHRS to negotiate and execute a Provider Agreement for the provision of psychiatric beds and services for Stanislaus County for a three-year period; authorized the CEO and Director of BHRS to enter into and execute an Interim Reimbursement Agreement, as necessary with Doctors Medical Center for county services needed for an interim period to ensure orderly transition of the operations until 11/30/07; authorized the CEO and the Director of BHRS to negotiate and execute Termination Agreements for the existing Facility Lease Agreement and Management Agreement with DMC for SBHC, and to negotiate and execute amendments to the Omnibus and Inpatient Agreements with DMC consistent with the termination of the Facility Lease Agreement and Management Agreement; approved the extension of the effective date for the staffing impacts outlined in Attachment A to no later than 11/30/07; amended the Salary and Position Allocation Resolution to reflect the recommended changes as outlined in the report and Attachment A of the report; extended the termination date for various contracted services agreements to no later than 11/30/07; authorized, as per the resolution, the division of Doctors Medical Center of Modesto, doing business as Stanislaus Behavioral Health Center, located at 1501 Claus Road, Modesto, CA, as a designated facility for detention, supervision, care, and treatment of persons who are mentally disordered, or who are alleged to be such, in accordance with Welfare and Institutions Code §5150 and 7100, effective 11/01/07;

authorized and directed the CEO to execute, acknowledge and deliver the agreements in the name and on behalf of the County; and to accept on behalf of the County any further amendments to the agreements so long as the further revisions do not materially modify the terms thereof or the conditions set forth in this approval and authorization; and, authorized and directed the CEO to take such steps, to waive such conditions in whole or in part, to do other acts and things, and to execute and deliver such documents, including the Agreements and related agreements, exhibits, schedules and similar instruments, that are contemplated by, consistent with and that do not materially modify the terms of the agreements heretofore approved, as he may deem necessary or appropriate to carry out the terms and provisions of this approval and authorization and to otherwise consummate the transactions authorized thereby – CEO 2007-841

Corr 1 Referred to the CEO, a letter from the President of the Alameda County Board of Supervisors regarding the U.S. Cool Counties Climate Stabilization Declaration.

Corr 2 Referred to the CEO, a letter from United Way of Stanislaus County regarding a notice from the California State Public Utilities Commission authorizing a six month extension for the implementation of the 2-1-1 dialing code for the County.

Corr 3 Acknowledged receipt of claims and referred to the CEO-Risk Management Division the following claims: Jason Phillips; Ammie Nunes; Deborah Finnegan; and, Valero City Gas.

Adjourned to closed session at 1:50 p.m. for conference with Legal Counsel-Existing Litigation. One Case: Cuevas vs. Emmanuel Medical Center, et al., Stanislaus County Superior Court Case No. 614263. Government Code §54956.9(a).

Adjourned at 2:00 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.)