

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

Regular Session

Tuesday

December 11, 2007

Supervisor Mayfield absent

Pledge of Allegiance to the Flag

Monteith/DeMartini (4-0)(Mayfield absent) Adopted the consent calendar after removing from consent item *C2 Approval to Award Contract to George Reed, Inc., of Modesto, California, for the Federal Aid Project No. STPL-5938(147), titled RSTP Roadway Resurfacing Program FY 2006/2007 (Phase 2)

*A1 Approved the minutes of 12/4/07

*A2 Approved Amended Bylaws for the Stanislaus County Children's Council

BD-65-26 2007-948

*A3 Approved amending the 2008 Board of Supervisors Meeting Calendar 2007-949

*B1 Declared impasse in the negotiations between the County and the Stanislaus County Sheriff's Management Association in accordance with Employee Relation Ordinance 3.68.370; and, implemented the salary provisions of the County's last, best and final offer for the period of 3/01/07 through 2/28/08, pursuant to Government Code §3505.4 – CEO 2007-950

*B2 Amended the Salary and Position Allocation Resolution to add 15 new positions to the CSA Program Services and Support Budget, in response to new MediCal program mandates and funding to meet citizenship verification requirements, effective 12/23/07; and, directed the Auditor-Controller to increase appropriations and estimated revenue in the amount of \$766,091 as detailed in the Budget Journal – CSA 2007-951

*B3 Accepted the report of Annual Inspection/Evaluation of Local Jail/Detention Facilities pursuant to §101045 of the State of California Health and Safety Code – DER 2007-952

*B4 Declared various County vehicles as surplus and authorized the sale of these vehicles to be auctioned; and, directed the Auditor-Controller to deposit all receipts from the sale of these vehicles into the GSA-Fleet Services Division account 5022-0018520-46000 – GSA 2007-953

*B5 Introduced and waived the first reading of Ordinance C.S. 1021 to add to the Stanislaus County Code, Chapter 2.24.125, which creates a 5% local vendor preference for businesses located within Stanislaus County when competitively bidding on services, supplies, materials and equipment – GSA ORD-55-E-2 2007-954

*B6 Approved the contract with Mountain Valley Emergency Medical Services Agency to administer local emergency services for FY 2008-2009; and, authorized the Managing Director of HSA, or her designee, to sign the contract with Mountain Valley Emergency Medical Services Agency – HSA 2007-955

*B7 Accepted FY 2007-2008 Grant from the Department of Insurance for the District Attorney's Office Workers' Compensation Insurance Fraud Program totaling \$260,000; authorized the DA to sign the grant award agreement including any extension, or amendments; approved a formal resolution as required by the State to receive this grant funding; and, directed the Auditor-Controller to decrease appropriations and estimated revenue by \$35,804 consistent with the budget journal – DA 2007-956

*B8 Awarded contract in the amount of \$144,281 to Champion Industrial Contractors, Inc. for the installation of a water-cooled liquid chiller at the Modesto Main Library; authorized the GSA Director/Purchasing Agent to execute and implement the contract with Champion Industrial Contractors, Inc. for \$144,281 and to sign all necessary documents; and,

- authorized the GSA Director/Purchasing Agent to execute change orders in accordance with Public Contract Code §20142 – Library 2007-957
- *B9 Approved and accepted the final contract with Wylie Construction of Modesto, CA, as follows: original contract of \$396,000 plus total change orders of \$33,172 for a total contract cost of \$429,172; approved a change order to Clark and Sullivan in the amount of \$28,694 for the work of revising the audio-visual switch disconnects at the Mary Stuart Rogers and Foster Family stages; and, authorized the Project Manager to sign, and staff to record the necessary Notices of Completion – CEO 2007-958
 - *C1 Finds that all subdivision improvements required for the Suncrest Estates II Subdivision by the Subdivision Improvement Agreement, executed by Suncrest/Denair, LLC. and the Stanislaus County Board of Supervisors, on 12/5/06 have been constructed to the satisfaction of Stanislaus County; finds that said agreement was recorded on 12/7/06 as Document No. 2006-0178834-00 and filed with the Stanislaus County Clerk Recorder’s Office; accepted all streets, avenues, and roads, and the drainage system within Suncrest Estates II Subdivision for maintenance by Stanislaus County; pursuant to §66499.7(a) of the Subdivision Map Act, authorized the release of Performance Bond No. 568725S, issued by INSCO Insurance Services, Inc. in the amount of \$264,869.00 for faithful performance of the Subdivision Improvement Agreement; pursuant to §66499.7(b) of the Subdivision Map Act, upon receipt of a Mechanic's Lien Guarantee, authorized the release of Labor and Materials Bond No. 568725S, issued by INSCO Insurance Services, Inc. in the amount of \$132,434.50 for payment of labor and materials; and, the Mechanic's Lien Guarantee must be dated a minimum of 61 days after the filing of the appropriate Notice of Completion, be in the amount of \$132,434.50, be prepared by a title company, be to the benefit of Stanislaus County and state that there are no liens of record – PW 2007-959
 - *C3 Approved the City of Riverbank fueling their compressed natural gas vehicles at the Stanislaus County Compressed Natural Gas (CNG) Fueling Station; and, authorized the Director of Public Works to execute the agreement with the City of Riverbank – PW C-1-A-19 2007-960
 - *C4 Approved the agreement with the City of Riverbank to construct two Compressed Natural Gas (CNG) maintenance facilities; authorized the Chairman of the Board to execute the agreement; and, authorized the Auditor-Controller to increase appropriations by \$10,000 as detailed in the Budget Journal Form for the preliminary engineering local match portion for construction of two CNG maintenance facilities – PW C-1-A-20 2007-961

DeMartini/Monteith (3-0)(Mayfield absent)(Grover abstained) *C2 Awarded contract in the amount of \$1,545,975 to George Reed, Inc., of Modesto, CA, for the construction of the Federal Aid Project No. STPL-5938(147), “RSTP Roadway Resurfacing Program FY 2006/2007 (Phase 2)”; authorized the Director of Public Works to execute a contract with George Reed, Inc., for \$1,545,975 and to sign necessary documents; directed the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet; authorized the Director of Public Works to execute change orders in accordance with Public Contract Code, §20142; and, upon project completion, authorized the Director of Public Works to accept the completed improvements and perform all necessary closeout activities - PW

Rescinded the above action for Item *C2 due to lack of a 4/5 vote

Monteith/DeMartini (3-0)(Mayfield absent)(Grover abstained) *C2 **Amended** the item to consider Staff Recommendations Nos. 1, 2, 4, 5 and continued Staff Recommendation No. 3 to a future date (due to the requirement of a 4/5 vote); approved Staff Recommendations Nos. 1, 2, 4, 5 as follows: awarded contract in the amount of \$1,545,975 to George Reed, Inc., of Modesto, California, for the construction of the Federal Aid Project No. STPL-5938(147), RSTP Roadway Resurfacing Program FY 2006/2007 (Phase 2); authorized the Director of Public Works to execute a contract with George Reed, Inc., for \$1,545,975

and to sign necessary documents; authorized the Director of Public Works to execute change orders in accordance with Public Contract Code, §20142; and, upon project completion, authorized the Director of Public Works to accept the completed improvements and perform all necessary closeout activities – PW
2007-962

Grover/Monteith (4-0)(Mayfield absent) **B10** Approved the relocation of the Urgent Care/After Hours Services to the Paradise Medical Office and designated the Paradise Medical Office as the site to provide primary care services to the Medically Indigent Adult program patients; and, authorized the Managing Director of HSA to take those reasonable actions necessary to implement this recommendation – HSA
2007-963

Recessed to sit as the Stanislaus County Redevelopment Agency at 9:21 a.m.

Grover/DeMartini (4-0)(Mayfield absent) **9:15am II** Approved the consent calendar

9:15am *III-A Approved the minutes of 8/28/07

9:15am *VI-A Authorized the expenditure of \$60,000 of Housing Set-Aside funds for the purchase of one (1) single-family residential lot in the Airport Neighborhood Redevelopment sub-area
2007-965

DeMartini/Grover (4-0)(Mayfield absent) **9:15am VI-B** Accepted the FY 2006-07 Financial Report including the Annual Audit of the Stanislaus County Redevelopment Agency as required by Health and Safety Code §33080.1; accepted the FY 2006-07 Redevelopment Agency Activities Report; and, authorized the submittal to the Board of Supervisors
2007-966

Reconvened to sit as the Stanislaus County Board of Supervisors at 9:24 a.m.

Grover/DeMartini (4-0)(Mayfield absent) **9:20 am** Conducted the public hearing, waived the second reading of Ordinance C.S. 1017 amending Title 16 of the Stanislaus County Code, and adopting by reference the California Code of Regulations Title 24, 2007 Edition, of the California Building Code; finds that the proposed changes and modifications to the 2007 California Building Standards contained in the proposed ordinance are necessary because of local climatic, geological, and/or topographical conditions, as detailed in the proposed ordinance; finds that the proposed ordinance is exempt under the provision of CEQA pursuant to State Guidelines §15061(b)(3); adopted Ordinance C.S. 1017; and, directed the Building Official to file the adopted ordinance and the Board's findings with the California Building Standards Commission – Planning
ORD-55-D-13; 2007-967 & 2007-968

Grover/Monteith (3-1)(Mayfield absent)(DeMartini opposed) **B11** Based upon the testimony received, the staff report and all exhibits attached, the Board finds after reviewing all exhibits and documents, including but not limited to the staff report, the hearing officer's decision of 08/18/06, the transcript and exhibits of the hearing conducted on 08/16/06, and all other exhibits, documents and letters attached to the Staff Report or provided to the Board, that: 1) Clark & Sullivan listed Custom Air as Subcontractor on the Gallo Project; 2) in May of 2006, Clark & Sullivan hired Modern Air to replace Custom Air without first requesting permission from County; 3) County staff told Clark & Sullivan in a letter that it must comply with the provisions of the Subcontractor Act regarding substitution of Custom Air; 4) Clark & Sullivan requested consent of the County to substitute Modern Air in place of Custom Air in a letter dated 07/31/06, which was some time after Modern Air had already begun work on the Gallo Project; 5) the County never consented to the substitution of Custom Air and told Clark & Sullivan to schedule a hearing; 6) Clark & Sullivan disregarded the Subcontractor Act by bringing in Modern Air instead of working out its contract dispute with Custom Air; 7) the County retained Paul Taylor to act as a hearing officer on the substitution request issue; 8) Clark & Sullivan representatives participated in the hearing on 08/16/06 along with representatives of Custom Air; 9) the hearing officer issued findings and conclusions and held: (a)Modern Air was performing work on the Gallo Project without the County's consent, (b) Clark & Sullivan had already substituted Modern Air in place of Custom Air without the County's

consent; 10) in order for a proper substitution to take place, a general contractor must ask permission from the owner before switching listed subcontractors; 11) the County adopted the hearing officer's decision and finds that there was substantial evidence to support the hearing officer's decisions, findings and conclusions; 12) the Board finds that the penalty recommended by staff is appropriate as: (a) Clark & Sullivan had several options to deal with the substitution issue and chose to disregard County's request to comply with State law, (b) there is strong public interest to see that the Substitution Law is followed; the Board adopted Staff Recommendations Nos. 1-4 in the staff report to the Board as follows: pursuant to Public Contract Code §4114, without further notice or hearing, adopted the hearing officer's 8/18/06 decision, findings, and conclusions to find that the prime contractor, Clark & Sullivan Builders, Inc., improperly substituted a listed subcontractor on the Gallo Center for the Arts Project in violation of Public Contract Code §4110, et seq.: finds that there is substantial evidence supporting the hearing officer's 8/18/06 decision, findings, and conclusions; imposed a penalty as authorized by Public Contract Code §4110 in the amount of \$190,538 representing 10% of the amount of the subcontract involved; and, ordered said penalty to be deposited in the fund from which the prime contract is awarded - CEO

2007-964

Corr 1 Referred to the CEO, a copy of the California Counties 2007 Challenge Awards Directory from the California State Association of Counties.

Corr 2 Referred to Animal Services, a letter from the Animal Advisory Board supporting Alley Cat Guardians' efforts to increase spay and neuter for feral cats.

Corr 3 Referred to the Auditor-Controller, a copy of the West Side Community Healthcare District Financial Statements.

Corr 4 Acknowledged receipt of claims and referred to the CEO-Risk Management Division the following claims: Emily Yarbrough through her guardian ad litem Lisa Yarbrough; Jacob Yarbrough through his guardian ad litem Lisa Yarbrough; Lisa Yarbrough; Ben Yarbrough; Alfonso Jesus Moscozo; Cameron Anthony Moscozo; Isaiah Dominguez, by and through his guardian ad litem, Arin Wilson; Enterprise Rental; AIG on behalf of their insured Jennifer Rodriguez; Justin White; and, 7/11 Material, Inc.

A discussion took place between Supervisor DeMartini and Chairman O'Brien regarding the Animal Services Facility project and the proposal process. This matter that will come to the Board for consideration.

The CEO noted that the healthcare reform initiative is still moving forward at the State level and that CSAC is involved with this issue. He reported that County staff is currently working on the 2008 legislative platform.

Adjourned at 10:10 a.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.)