

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

Special and Regular Session  
All Supervisors Present  
Pledge of Allegiance to the Flag

Tuesday

April 21, 2009

**Recessed to Closed Session at 5:30 p.m.** for Conference with Legal Counsel - Anticipated Litigation - One Case. Government Code §54956.9(c).

**Reconvened at 6:30 p.m.** for Regular Session

Jan Viss and Kim Wood-Hiatt of the Child Abuse Prevention Council gave a presentation regarding Child Abuse Prevention Month in Stanislaus County and presented the winners of their annual art contest.

Ronald Swift of WS-Pace spoke regarding the PCCP West Park Development Project and requested that the Board require a financial guarantee from the developer.

Gary Darpinian expressed concerns regarding the North Corridor Expressway Project process and requested that the Joint Powers Authority change its study area to include the Kiernan-Claribel Corridor.

DeMartini/Grover unan. Adopted the consent calendar after removing from consent item **\*B2** Approval of the Use of Community Development Funds to Fund a Portion of the Costs for the Development of a Countywide Growth Management Strategy – CEO

- \***A1** Approved the minutes of 04/14/09
- \***A2** Appointed Yamilet Valladorid to the Stanislaus County Children’s Council 2009-237
- \***A3** Reappointed Chris Savage and Andrew Van Allen to the San Joaquin Valley Unified Air Pollution Control District Citizens Advisory Committee 2009-238
- \***A4** Approved a commendation for Everett Johnson, M.D. Upon Receiving the 2008 John Darroch Memorial Award 2009-239
- \***A5** Proclaimed May 2009 as Older Americans Month and Elder and Dependent Adult Abuse Awareness Month 2009-240
- \***A6** Accepted the resignation of Cheryl Heppner from the Stanislaus County Children’s Council 2009-241
- \***A7** Approved a commendation for James E. Silveira upon being honored posthumously as the Newman Rotary Citizen of the Year 2009 2009-242
- \***B1** Accepted the following audited financial reports for fiscal year ended 06/30/2008, prepared by Brown Armstrong Accountancy Corporation: 1) Audit Scope and Process; 2) Annual Financial Report - Stanislaus County; 3) Agreed Upon Conditions Report to Management - Stanislaus County; 4) Single Audit Report; 5) Annual Financial Report – HSA Clinic and Ancillary Service; and, 6) Report to Management and Required Communication - HSA Clinic and Ancillary Service – Auditor-Controller 2009-243
- \***B3** Set a public hearing on 05/19/2009, at 6:40 p.m., to introduce and waive the first reading of an ordinance to amend existing fees for the Department of Public Works Engineering Division ORD-55-J-9 2009-244
- \***B4** Approved request from the Christian Service Brigade at Big Valley Grace Community Church to have exclusive use of the Kiwanis Camp Friday, 04/24/2009, beginning at 10:00 a.m. to

Sunday, 04/26/2009, ending at 3:30 p.m., for their Annual Camporall; directed the Christian Service Brigade at Big Valley Grace Community Church to adhere to the requirements set forth by the Department of Parks and Recreation; and, approved the waiver of fees for exclusive use and reservation of the Kiwanis Camp – Parks and Recreation 2009-245

- \*C1 Pursuant to the Street and Highway Code §8334, finds that the western portion of the 20' alley located adjacent to Lots 9-12 of Block 4903 east of Carpenter Road in Stanislaus County is not required for street or highway purposes; reserving there from, for the benefit of existing utilities, a Public Utility Easement and any easement and right to maintain, operate, replace, remove, or renew the public utility facilities, including any necessary rights of access over and across the above description; and, adopted a resolution vacating the western section of the alley located adjacent to Block 4903 running in an east-west direction – PW 2009-246
- \*C2 Approved the purchase agreement for the road right-of-way acquisition for the Hatch Road at Santa Fe Avenue Intersection Improvement Project, parcel owners Duarte Properties, Inc. (APN: 018-065-007); authorized the Chairman of the Board to execute the agreement; directed the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet; and, directed the Auditor-Controller to issue a warrant in the total amount of \$42,075, payable to Fidelity National Title Company, for the purchase amount of \$40,575 and \$1,500 for estimated escrow fees and title insurance – PW 2009-247
- \*C3 Adopted plans and specifications for the Ladd Road at McHenry Avenue Intersection Improvement Project and set the bid opening date and time for 05/20/2009, at 2:00 p.m.; directed the Clerk of the Board to publish notice inviting bids for the project as required by law and set 05/20/2009, prior to 2:00 p.m., as the deadline for submission of bids; directed the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet; and, directed the Public Works Department staff to mail a notice inviting bids to trade journals as required by law – PW 2009-248

O'Brien/Monteith unan. \*B2 Approved the use of \$100,000 of Community Development Funds to fund a portion of the costs for the development of a Countywide Growth Management Strategy – CEO 2009-249

Grover/Chiesa unan. **6:40 pm A.** Introduced and waived the first reading of Ordinance C.S. 1054 to establish and amend agricultural registration fees for the Department of Agriculture and Weights and Measures ORD-55-J-1 2009-251

Monteith/Grover unan. **6:40 pm B.** Introduced and waived the first reading of Ordinance C.S. 1056 to amend existing fees for DER ORD-55-J-3 2009-252

Grover/O'Brien unan. **6:45 pm** Conducted the required public hearing to consider Planning Commission's recommendation for approval of GPA #2007-08, Rezone Application #2007-11 and Vesting Tentative Parcel Map Application #2007-32 – Kiernan Court Office Park, a request to amend the General Plan Designation from Highway Commercial Planned Development to Planned Development, and rezone from A-2-40 (General Agriculture) to PD (Planned Development) and create three parcels measuring 1.07, 1.01 and 0.98 acres from a 3.06 acre parcel; the project proposes development of a three story, 69,531 square foot office building on property located at 5049 Kiernan Court, northeast of Kiernan Avenue, east of State Highway 99, in the Salida area; 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 judgement

and analysis; 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 the project is consistent with the overall goals and policies of the County General Plan; finds that the proposed PD zoning is consistent with the Planned Development General Plan designation; 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 are 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; approved GPA #2007-08, Rezone Application #2007-11 and Vesting Tentative Parcel Map Application #2007-32 - Kiernan Court Office Park, subject to the Development Standards; and, introduced and waived the reading and adopted Ordinance C.S. 1053 for the approved Rezone Application #2007-11 – Planning ORD-55-I-9 2009-253 & 2009-254

Chiesa/Monteith unan. **6:50 pm** Conducted the required public hearing to consider Planning Commission's recommendation for approval of GPA #2007-04, Rezone Application #2007-04, Parcel Map Application #2008-11 and Williamson Act Cancellation #2007-03 – Sun Dry Products/Jim Davis, a request to amend the General Plan and Rezone 114.8 acres of a 200± acre parcel from Agriculture/A-2-40 (General Agriculture) to P-D (Planned Development) to allow the continued operation of the reclamation and recycling of agricultural products and add an industrial hauler, processing of commercial feed products and construction debris (such as pallets and sulfur and gypsum wall board); a parcel map is being requested to subdivide the total 200± acre parcel into four parcels (63.69, 51.11, 42.87, and 42 acres respectively); the two larger parcels require a Williamson Act Cancellation; the two proposed smaller parcels would continue in agricultural uses; the project is located at 3401 Gaffery Road, on the north side of Gaffery Road, east of Koster Road, adjacent to the Delta Mendota Canal, in the Westley area; the project is also located in San Joaquin County, which splits the property leaving a small amount in San Joaquin County; adopted the Mitigated Negative Declaration pursuant to California Code of Regulations §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; in relation to the request for a Parcel Map, finds: 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, H) the resulting parcels following a subdivision of land are large enough to sustain their agricultural use, and, I) the subdivision will not result in residential development

not incidental to the commercial agricultural use of the land; in relation to the request for a General Plan Amendment and Rezone, finds: A) the General 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, D) overall, the proposal is consistent with the goals and policies of the General Plan, E) there is evidence on the record to show a demonstrated need for the proposed project based on population projections, past growth rates, and other pertinent data, F) no feasible alternative site exists in areas already designated or planned for the proposed uses, G) approval of the proposal will not constitute part of, or encourage piecemeal conversion of a larger agricultural area to non-agricultural uses, and will not be growth-inducing (as used in CEQA), H) the proposed project is designed to minimize conflict and will not interfere with agricultural operations on surrounding agricultural lands or adversely affect agricultural water supplies, I) adequate and necessary public services and facilities are available or will be made available as a result of the development, J) the design of the proposed project has incorporated all reasonable measures, as determined during the CEQA review process, to mitigate impacts to fish and wildlife resources, air quality, water quality and quantity, or other natural resources, K) the proposed Planned Development zoning is consistent with the proposed Planned Development General Plan designation, and, L) the project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements; in relation to the request to cancel a portion of Williamson Act Contract 75-1888, finds: A) finds that, based on the discussion above and the whole of the record: (1) a notice of non-renewal has been served, (2) removal of adjacent land from agricultural use is unlikely, (3) the alternative use is consistent with the General Plan, (4) discontinuous patterns of urban development will not result, and (5) there is no proximate non-contracted 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 non-contracted land, B) that cancellation is in the public interest based on findings that: (1) Other public concerns substantially outweigh the objectives of Government Code, specifically as they relate to the expansion and continued operation of the Sun Dry facility; and (2) that there is no proximate non-contracted land, which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land; accepted the Cancellation Value of the Subject Property as determined by the County Assessor to be \$1,198,000; certified to the County Auditor the Cancellation Fee, which must be paid as deferred taxes to be 12½% of the accepted cancellation value or \$149,750; 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; gave tentative approval of Cancellation of Williamson Act Contract #75-1888 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; 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 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; approved Parcel Map Application #2008-11, subject to the 03/19/2009 recommendation of the Stanislaus County Planning Commission and the addition of the following Development Standards: (1) the recorded parcel map shall be prepared by a licensed land surveyor or a qualified registered engineer, (2) all structures not shown on the tentative parcel map shall be removed prior to the parcel map being recorded, and (3) all new parcels shall be surveyed and fully monumented; approved GPA #2007-04, subject to the 03/19/2009 recommendation of the Stanislaus County Planning Commission; approved Rezone Application #2007-04, Sun Dry Products/Jim Davis subject to the 03/19/2009 recommendation of the

Stanislaus County Planning Commission; and introduced and waived the reading and adopted Ordinance C.S. 1061 for the approved Rezone Application #2007-04 – Planning  
ORD-55-J-8      2009-255 & 2009-256

Grover/O’Brien unan. **B5** Set a public hearing on 05/19/2009, at 6:45 p.m., pursuant to §1442.5 of the Health and Safety Code to consider the BHRS Restructuring Plan, including reductions-in-force, and potential service level changes for outpatient psychiatric and substance abuse services – BHRS  
2009-250

**Corr 1** Referred to the Alliance Worknet and the Stanislaus Economic Development and Workforce Alliance, two letters from Gottschalks regarding their plans to close their stores on June 1, 2009, or within 14 days, and layoff their employees at 3401 Dale Road, Ste. 200 and at 2401 E. Orangeburg Avenue in Modesto, CA, per the Worker Adjustment and Retraining Notification (WARN) Act.

**Corr 2** Referred to the Agricultural Commissioner and Sealer of Weight and Measures, a copy of a Petition for Temporary Transfer of Water/Water Rights for the South Sutter Water District from MBK Engineers.

**Corr 3** Acknowledged receipt of claims and referred to the CEO-Risk Management Division the following claims: Marcus Raymond, Edward and Linda Brungelson; Nicholous Kiele; Sonya Gilbert; and, Derrick Anderson.

Supervisor Grover expressed concerns regarding reports of bad customer service from County employees. He recommended that the Board have a zero tolerance for poor customer service, and that the County celebrate those examples of good public service. He spoke regarding Leadership in Energy and Environmental Design (LEED) construction and noted that this type of construction is expensive, and cautioned the County to be very careful about spending public money on these types of faddish items. He expressed the importance of the County saving energy whenever it can while remaining fiscally responsible.

Chairman DeMartini voiced his concerns regarding the number of WARN Act notifications from businesses that are laying off employees, and the number of businesses that are closing locally. He reported that he did not know that the WS-Pace organization was coming tonight and that he thinks a financial guarantee from the West Park developer would be in order.

The Board designated Chairman DeMartini to serve on the Election Observer Panel for the 5/19/09 Statewide Special Election.

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.)