

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

Regular Session

Tuesday

May 11, 2004

All Supervisors present

Pledge of Allegiance to the Flag

Chairman Caruso presented the May 2004 as Elder and Dependent Abuse Awareness Month resolution to the District Attorney Office.

Pat Boyd spoke in support for higher wages for IHSS workers. She recognized Ken Patterson for the great job he has done with the Foster Care program.

Danielle Maxwell supplied the Board with a letter from Barbara Matthews, and also a copy of AB 649. She also gave the Board a copy of the various counties' benefits statistics and asked for their support of this legislation.

Sabrina Kola spoke on behalf of the caregivers. She is the caregiver of her mother and they are worried about what will happen if the wages are no longer allowed.

Gertie Thornhill spoke in support for higher wages for IHSS workers. She is the caregiver of her daughter and worries that she may not be able to care for her if wages are no longer allowed to those who care for family members. The Interim CEO noted that this would take action by the State and currently the State is not considering eliminating this program.

Simon/Paul unan. Adopted the consent calendar

*A1 Approved the minutes of 5/04/04

*A2 Approved a request from Cub Scout Den 18, Pack 451 for use of Frank Raines Park on
Saturday, 5/22/04 2004-329

*B1 Authorized CSA to amend an agreement for the Promoting Safe and Stable Families Program (PSSF) with Sierra Vista Child and Family Services and authorized the Director of CSA, or his designee, to sign the agreement and any amendments not to exceed the amended contract amount of \$139,815 – CSA 2004-330

*B2a Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 1710 Dallas Street, Modesto, California (CE No. 03-1427) – DER 2004-331

*B2b Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 7730 Grayson Road, Modesto, California (CE No. 03-674) – DER 2004-332

*B2c Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 1233 Main Street, Modesto, California (CE No. 03-1900) – DER 2004-333

*B2d Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 4701 McHenry Avenue, Modesto, California (CE No. 03-2775) – DER 2004-334

*B2e Adopted the recommendations of the Nuisance Abatement Hearing Board regarding nuisances at 4204 Warda Avenue, Keyes, California (CE No. 03-2795) – DER 2004-335

*B3 Approved the submission and accepted an application for a State of California Off-Highway Vehicle Grant by the Department of Parks and Recreation for the operation and maintenance of Frank Raines and La Grange Off-Highway Vehicle Parks for FY 2004/05; authorized the Director of the Department of Parks and Recreation to sign and submit the application to the State of California Resources Agency; and, approved the grant resolution – Parks and Recreation 2004-336

- *C1 Directed the Auditor-Controller to decrease Appropriations and accepted the Westley Triangle Landscape Project as complete – PW 2004-337
- *C2 Directed the Auditor-Controller to decrease Appropriations and accepted the Finch Road at Mariposa Traffic Signal Project as complete – PW 2004-338
- *C3 Directed the Auditor-Controller to decrease Appropriations and accepted the Carpenter Road 2.0 Realignment Project as complete – PW 2004-339
- *C4 Directed the Auditor-Controller to decrease Appropriations and accepted the 01/02 AC Overlay Project as complete – PW 2004-340
- *C5 Directed the Auditor-Controller to decrease Appropriations and accepted the Compressed Natural Gas Vehicle Purchase, Phase II, Project as complete – PW 2004-341
- *C6 Directed the Auditor-Controller to decrease Appropriations and accepted the Pavement Management System Project as complete – PW 2004-342
- *C7 Directed the Auditor-Controller to decrease Appropriations and accepted the Compressed Natural Gas Refueling Station Project as complete – PW 2004-343
- *Leg. A. Approved sending a letter to Governor Arnold Schwarzenegger, urging him to preserve the Temporary Assistance for Needy Families (TANF) Funding that supports Juvenile Probation efforts throughout the County 2004-344

Simon/Mayfield unan. **B4** Approved the Interim Chief Executive Officer's Third Quarter Financial Report for FY 2003/04; authorized the Interim CEO and the Auditor-Controller to make the necessary adjustments as recommended in the report; authorized the Interim CEO to take the necessary actions to end the fiscal year in a positive fiscal position; requested the Auditor-Controller accrue SB 90 Revenue from the December 2003 claim for the BHRS budget units at year-end; authorized the Auditor-Controller to make the necessary year-end closing entries as approved by the Interim CEO; and, amended the Salary and Position Allocation Resolution as outlined in the staffing impacts section effective the start of the 5/15/04 pay period 2004-345

Mayfield/Paul unan. **9:25am** Adopted the Final Annual Work Plan that includes the \$2.288 million Community Development Block Grant (CDBG), the \$85,010 Emergency Shelter Grant (ESG), and the \$540,943 Home Investment Partnership (HOME) Grant, for a total of \$2,913,953 for FY 2004/05 2004-346

Simon/Grover unan. **9:30am** Finds that notice of the public hearing was published in compliance with §6061 of the Government Code; held the scheduled public hearing; adopted the FY 2004/05 Annual Assessment Rates for Del Rio Heights Landscape Assessment District; and, authorized the transfer of any fund balances into the General Reserve and/or the System Replacement Funds (funds shall retain all interest earned) for the Del Rio Heights Landscape Assessment District – Parks and Recreation 2004-347

Mayfield/Simon unan. **9:35am** Based on the staff report, including the PowerPoint presentation, all attachments, documents and exhibits, staff comments and testimony received at the Board meeting today, along with Board comments, the Board concurred and adopted all of the Staff Recommendations as set forth in the staff report and makes all of the recommended findings set forth in the staff report; the Board approved the action to set aside and void the approvals of March 30, 2004, addendum to the Diablo Grande Specific Plan Environmental Impact Report and the Modified Condition Number 57 for Vesting Tentative Map 97-01, Diablo Grande, Unit 1, to make additional findings necessary and to re-approve a Modified Addendum to the Diablo Grande Specific Plan EIR, and to incorporate the Kern County Water Agency (KCWA) water supply into condition of approval number 57 for vesting Tentative Map 97-01, Diablo Grande, Unit 1; the Board adopted Staff Recommendations 1 through 4 set forth on pages 1 through 7 in the staff report and makes the findings which are included but not limited to Findings A through G-11 set forth on pages 2 through 6 of the staff report; in addition, the Board makes the following additional findings: (1) Board finds that the Fifth District Court of Appeals, further clarified that the

Diablo Grande Phase 1 project is an approved project and that the analysis of the Berrenda Mesa Water Supply was adequate and that no action has occurred to change that conclusion; (2) Board finds that based on previous approvals, and prior to the Court Opinion Number F042089, a Final Map for Diablo Grande Unit 1-A, covering 193 residential lots was accepted by the Board and has been recorded as 40-M-94 in October of 2002, and that the Western Hills Water District is currently supplying water to Diablo Grande Unit 1-A in accordance with all applicable local, state, and federal authorizations and permits; (3) Board finds that as a part of the Phase 1 approvals, the Board has previously authorized use of the Marshall-Davis Farms well for emergency purposes and that the Marshall-Davis Farms alternative was evaluated in the Diablo Grande Water Resources Plan SEIR (Water Plan Option 1) and that groundwater from this source was relied upon to serve the start-up needs of Diablo Grande Phase 1; (4) Board finds that the Diablo Grande Water Resources Plan SEIR, Water Plan Option 1, proposed the continued extraction of up to 1,200 afy of groundwater from the Marshall-Davis Farm and conveyance of water to Diablo Grande beyond 2001, and that pursuant to County requirements, Diablo Grande monitored groundwater levels during the start-up period when Diablo Grande relied on groundwater source, and that Diablo Grande agreed to mitigate any adverse impact on neighboring properties caused by a draw down of over ten percent (10%) of the wells, and that the groundwater level monitoring was conducted and revealed no such adverse impacts; (5) Board finds that the Diablo Grande Water Resources Plan SEIR assessed this permanent Marshall-Davis Farms water plan option based upon continued use of this water supply source, without any restrictions on term or use; (6) Board finds that there are no changed circumstances or other factors that would trigger the requirement for additional environmental review of a potential use of this groundwater in the event of an emergency; (7) The Board finds that there are no significant changes in land uses in the vicinity of the site that would alter the analysis of use of this groundwater; (8) Board finds that the use of the Marshall-Davis Farms well is the only emergency or contingency water supply plan that has been adopted by the Board of Supervisors for the Diablo Grande Project; (9) Board finds that Stanislaus County is not approving the contingency plan described in Exhibit E to the KCWA-WHWD Contract to Transfer Water and that Stanislaus County has previously determined that 8,000 acre-feet of Berrenda Mesa water supply was sufficient, and the paper transfer to KCWA does not alter this analysis in any way; (10) Board finds that a revised Addendum to the Diablo Grande Specific Plan EIR has been reviewed and prepared for and considered by the Board and is attached to the staff report; (11) Board finds that based on all available documentation, contracts, resolutions, and the entire and complete records associated with the various decisions by KCWA, WHWD, and the State Department of Water Resources, that a sufficient supply of water exists to serve the Diablo Grande Phase 1 project; (12) Board concurs with staff findings numbers 1 through 11 set forth on pages 13, 14, 15, and 16 of the staff report; (13) Board finds that based on information and data presented in the whole of the record, the Board concludes that there are no substantial changes proposed in the project, nor any substantial changes with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous EIR or SEIR because there are no new significant environmental effects nor a substantial increase in the severity of previously identified significant effects; (14) Board finds that no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR and SEIR, were certified, shows any of the circumstances set forth in the following finding No. 15; (15) Board finds that there is no evidence to suggest that the project will have one or more significant effects not discussed in the previous EIRs, and that there is no evidence to suggest that significant effects previously examined will be substantially more severe than shown in the previous EIRs, and that there is no evidence to suggest that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, and that there is no evidence to suggest that any mitigation measures or alternatives which are considerably different from those analyzed in the previous EIRs would substantially reduce one or more significant effects on the environment, and that there is no evidence to suggest that there is new information that would necessitate the need for additional environmental review under the requirements of CEQA and the CEQA Guidelines; (16) Board finds and concludes that the use

of the Berrenda Mesa-KCWA Water Exchange to provide water supply for the Diablo Grande Phase 1 development will not result in any new or substantially increased environmental effects not already disclosed in the SEIR's analysis of the Berrenda Mesa water supply option, or in the KCWA Initial Study and Negative Declaration for the Pioneer Groundwater Recharge and Recovery Project insofar as implementation of the Pioneer Groundwater Recharge and Recovery Project relates to the proposed transfer; (17) Board finds that none of the circumstances set forth in Public Resources Code §21166, as codified in CEQA Guidelines §15162, requiring preparation of a subsequent or supplemental EIR, have been triggered; (18) Board finds that the changes as proposed from the Berrenda Mesa supply to the KCWA supply were required by the State Department of Water Resources, and, based on the analysis presented in the Addendum, all other related documentation, and included in the staff report, that none of the conditions described in §15162 of the CEQA Guidelines calling for the preparation of a subsequent EIR have occurred; (19) Board finds that based on the entirety of the record and available information, including an independent analysis of the potential impacts associated with the change, that the proposed change in the water supply for the Diablo Grande Phase 1 project from Berrenda Mesa to KCWA is not substantial and does not require major revisions of the adopted Diablo Grande EIR as supplemented; (20) Board concludes that the use of the groundwater from the Marshall-Davis Farms well, as an emergency water supply, has already been analyzed, and that there are no changed circumstances and based upon the Addendum, all related documentation, and the staff report, that there is no requirement for additional environmental review; (21) Board finds that based on the entirety of the record and available information, including an independent analysis of the potential impacts associated with the change, that the proposed change in the water supply for the Diablo Grande Phase 1 project to transfer the Berrenda Mesa water to KCWA's and then to withdraw an amount equal to the amount of water from KCWA groundwater bank, using the same conveyance facilities as previously contemplated, is not substantial, and does not require major modifications to the adopted Diablo Grande EIR as supplemented; (22) Board finds and concurs with staff answers to the primary questions posed by the Fifth District Court of Appeals which are numbered 1 through 4 on pages 22 and 23 of the staff report to the Board; and, (23) Board finds that neither Steve Burke nor Lydia Miller are qualified experts and that their comments are speculation and unsubstantiated opinion; and that their comments are narrative and argumentative in nature, and, therefore, do not rise to the level of, nor can be considered to be substantial evidence, for the purpose of this hearing

2004-348

Corr 1 Referred to the Department of Planning and Community Development, a letter from the City of Temecula requesting opposition of SB 744 (Dunn) which gives the California Department of Housing and Community Development (HCD) the authority to overturn local land use decisions after hearing appeals from housing development applicants who were previously denied approval or granted approval with conditions by a local agency. The Board will consider opposition of this Senate Bill on 5/18/04.

Corr 2 Referred to the Department of Aging and Veteran Services, a letter from the Department of Veterans Affairs regarding new funding from the federal government for County Veterans Service Office and requested consideration of this funding when addressing the needs of this department. The Board requested that a letter be sent to the Department of Veterans Affairs thanking them for the additional funding, and Supervisor Simon wanted to recognize the County's Department of Aging and Veterans Services for their outstanding service to the community.

Corr 3 Referred to DER, a letter from the Air Resources Board regarding the implementation of regulations to reduce toxic particulate matter (PM) emissions from diesel-fueled commercial and residential waste collection vehicles. Supervisor Mayfield requested that a letter be sent to the Air Resources Board regarding this matter and requesting a demonstration project that shows that reduction of PM emissions is possible for the waste collection vehicles and that this County is willing to be the project site for such a program.

Supervisor Grover noted that the Modesto City-County Liaison Committee met yesterday to discuss various issues that they have in common. Supervisor Simon noted that it was a very good meeting. The issues discussed were on security issues in the downtown Modesto area; Joint Powers Agencies; tax sharing agreements; County islands in the north area of Modesto; various ordinances; regional water services; and, other matters.

Supervisor Paul asked about other joint city meetings. The Board will meet with the City of Newman on 8/17/04 and with the City of Ceres on 10/19/04.

Chairman Caruso informed the Board that he received some information from the Governor's office regarding the budget and that he has given this information to staff.

The Interim CEO spoke regarding the State Budget. She noted that on Thursday evening, between 5:00 p.m. and 6:30 p.m., there will be a "Suggestion Box" meeting by Senators Denham, Poochigian and Assemblymen Aghazarian and Nagiashi at 1010 10th Street in Modesto. She also noted that 5/12/04 and 5/13/04 will be Local Government Legislative Action Days in Sacramento, and the Governor will be releasing his May Revised Budget during this event on Wednesday.

Adjourned to Closed Session at 11:24 a.m. to discuss Labor Negotiations: Agency Negotiator Patricia Hill Thomas. Labor Organizations SCEA/AFSCME, SEIU, OE3, DSA, SCSSA, CAIR/CIR, CNA, UDW and Management and Confidential. Government Code §54954.9(e)

Adjourned at 12:10 p.m.

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

BY: CHRISTINE FERRARO TALLMAN, 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.)