

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

Regular Session

Tuesday

March 31, 2009

All Supervisors Present

Pledge of Allegiance to the Flag

Employee Service Awards were presented to Albert Suelzle from the Clerk-Recorder's Office; to Josephine Navarro from CSA; and, to Jan Cade from the Treasurer-Tax Collector's Office for thirty years of service; and, to Norma DeLeon from CSA for twenty-five years of service.

Monteith/Grover unan. Adopted the consent calendar after removing from consent items ***B7** Approval to Introduce and Waive the First Reading of an Ordinance to Establish a Medical Marijuana Identification Card Application Fee – Health Services Agency; ***C2** Approval of Amendment No. 4 to Agreement No. 2004-1 with Wood Rodgers to Add Post-Design Engineering Services for the Ladd Road and McHenry Avenue Intersection Improvement Project; and, ***C5** Approval to Adopt a Resolution of Support to the Stanislaus Council of Governments to Formally Apply for the Partnership Planning Grant 2009-2010 for the Proposed South County Corridor Project (West Main Street) to Fund the Feasibility Study with the City of Patterson and Stanislaus County

***A1** Approved the minutes of 03/24/2009

***A2a** Appointed Robert Hull and Benandrew Briggs to the Stanislaus County Mental Health Board
2009-181

***A2b** Appointed Bryan Briggs to the Economic Development Action Committee 2009-182

***A3a** Proclaimed April 2009 as Child Abuse Prevention Month and April 24, 2009 as Children's Memorial Day in Stanislaus County 2009-183

***A3b** Proclaimed 04/12/09 - 04/18/2009 as National Library Week in Stanislaus County 2009-184

***A3c** Proclaimed 04/15/2009 as the 100th Anniversary of the Stanislaus County Probation Department 2009-185

***A3d** Proclaimed May 2009 as Asthma Awareness Month in Stanislaus County 2009-186

***B1** Approved contracting with the CPA firm of Brown Armstrong Accountancy Corporation to conduct the Annual County Audit for FY ending 06/30/2009; and, authorized the Purchasing Agent to negotiate and sign the final contract – Auditor-Controller 2009- 187

***B2** Approved the final completion of the Clark & Sullivan contract for the construction of the Gallo Center for the Arts project within existing project funding and proceeds, by taking the following actions: approved and accepted the final contract with Clark & Sullivan Builders, Inc., of Sacramento, California, as follows: original contract for \$21,107,000 plus the total change orders for \$1,696,940 with the final contract cost coming to \$22,803,940; authorized release of retention being held in escrow account for the benefit of Clark & Sullivan Builders in the principal amount of \$2,210,938.80; approved a change order to Clark & Sullivan Builders, Inc., in the amount of \$500,000 for impacts to subcontractors for unforeseen site conditions, funded by funds in the County Treasury for the project and authorized the Auditor to increase appropriations by \$500,000 in the project budget; and, approved the related fiscal and budget actions necessary to close out the Gallo Center for the Arts Project, including: authorized the Auditor Controller to transfer remaining project funds of \$219,796, which represents previous General Fund contributions for the Gallo Project budget, from the Gallo Project budget (fund 2052) to the CEO - Plant Acquisition budget, and increase appropriations in the same amount for approved closeout expenses, authorized the Auditor-Controller to release \$11,154.02, plus any additional accrued

interest earnings, remaining in the Central Valley Center for the Arts (CVCA) fund to the CVCA upon project close out; and, authorized the use of existing appropriations in the Chief Executive Office - Plant Acquisition Budget up to \$140,000 for approved project close out costs and related professional services, to be offset by no less than \$10,350 to be received by the County from W.F. Hayward & Co. as discovery sanctions – CEO

2009-188

- *B3** Authorized the CEO, or his Designee, to adjust the 12th Street Parking Garage parking allocation and cost sharing with Westland Development Corporation pursuant to the provisions of the Amended Parking License Agreement between the County and Westland Development Corporation – CEO 2009-189
- *B4** Approved the plans and specifications for the emergency power system improvements at the Stanislaus County Honor Farm facilities prepared by Greg E. Miller and Associates, Inc.; authorized the CEO to issue a notice inviting bids on 04/01/2009, for the construction phase of the project, and for the Project Manager to modify the bid date if necessary; authorized the Project Manager to review bids on 05/06/2009 no later than 2:00 p.m., and return to the Board to recommend a contract award to the lowest responsible bidder; and, authorized the Project Manager to negotiate and sign contracts and work authorizations necessary to manage the construction phase including construction management, professional services, and other project related expenses as necessary to manage the project as long as the costs are within the project budget as approved by the Board of Supervisors – CEO 2009-190
- *B5** Approved entering into contracts with Iomlan Construction Services, Inc. and Stewart and Stewart, Inc. for on-call inspection services; and, authorized the Chief Executive Office to execute and sign agreements, purchase orders and work authorizations for professional on-call inspection services for multiple capital projects – CEO 2009-191
- *B6** Approved the Pandemic Influenza Full Scale Exercise for 04/16/2009, as a Disaster Training coordinated by Health Services Agency; and, approved the participation of Disaster Service Workers in the Pandemic Influenza Exercise – OES 2009-192
- *B8** Set a public hearing on 04/28/2009 at 9:15 a.m. to introduce and waive the first reading of an ordinance to establish new fees and amend existing fees for building permits – Planning ORD-55-J-6 2009-193
- *B9** Set a public hearing on 04/28/2009 at 9:15 a.m. to introduce and waive the first reading of an ordinance to establish new fees and amend existing fees for planning services – Planning ORD-55-J-7 2009-194
- *C1** Approved summarily vacating the portion of an 18’ alley located adjacent to Lots 12-16 of Block 5 south of Modesto Irrigation District High Line Lateral and north of 2nd Street in the Community of Empire in Stanislaus County; and, pursuant to the Street and Highway Code§8333, 8335, and 8336, finds that the southern portion of the subject alley is not required for street or highway purposes; finds there are no in-place utility facilities in the abandonment area that will be affected by the abandonment; and, adopted a resolution vacating the southerly section of Block 5 Alley – PW 2009-195
- *C3** Authorized the Director of Public Works to sign a General Lease – Right-of-Way Use Agreement with the California State Lands Commission for the Geer Road Bridge at the Tuolumne River – PW 2009-196
- *C4** Approved Cooperative Agreement No. 10-334, with the State of California, Department of Transportation for the installation of emergency vehicle signal pre-emption equipment at the intersections of State Route 108 (McHenry Avenue) at Patterson Road and State Route 108 (Patterson Road) at Ladd Road; and, authorized the Chairman of the Board to execute a contract with the State of California, Department of Transportation, not to exceed \$18,000 – PW 2009-197

***D1** Set a Public Hearing for 04/21/2009 at 6:50 p.m. to consider GPA Application #2007-04, Rezone Application #2007-04, Parcel Map Application #2008-11 and Williamson Act Cancellation #2007-03, Sun Dry Products 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 will 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. APN: 016-003-009 (San Joaquin County APN: 265-001-009) – Planning
ORD-55-J-8 2009-198

Grover/Monteith unan. ***B7** Introduced and waived the first reading of an Ordinance to establish a Medical Marijuana Identification Card application fee in the amount of \$118 which represents the County portion only of the fee and does not include the State imposed fee, currently set at \$66 – HSA 2009-199

Chiesa/Grover unan. ***C2** Approved Amendment No. 4 to Agreement No. 2004-01 with Wood Rodgers to add post-design engineering services for the improvements at the Ladd Road and McHenry Avenue intersection; authorized the Director of Public Works to execute the amendment; and, directed the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet – PW
2009-200

DeMartini/Grover unan. ***C5 Amended** the resolution to strike the words “West Main Street”; and; approved the amended resolution supporting StanCOG to apply for and accept the Partnership Planning Grant 2009-2010 for the proposed South County Corridor Project to fund the feasibility study with the City of Patterson and Stanislaus County – PW
2009-201

Chiesa/Grover unan. **9:15 a.m.** Based upon the staff report, presentations by staff and reports of consultants, including the PowerPoint presentation, all comments and testimony received during the public hearing, and all materials that were supplied to the Board and were taken into consideration in its decision, the Board denied the appeal and upheld the Planning Commission’s decision to approve Use Permit Application No. 2008-03 - Delaney Aggregates, and specifically adopted Staff Recommendations Nos. 1 through 7 on pages 2 and 3 of the staff report as follows: 1) adopted the Mitigated 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 Mitigated Negative Declaration reflects Stanislaus County’s independent judgment and analysis; 2) made the following required findings for approval: (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 as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity; (C) the parcel on which such use is requested is not located in one of the County’s “most productive agricultural areas,” as the term is used in the Agricultural Element of the General Plan, or the character of the use that is requested is such that the land may reasonably be returned to agricultural use in the future; (D) the

alternative to the Agricultural Buffer Standards applied to this project provides equal or greater protection than the existing buffer standards; (E) 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; (F) the use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural product on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping; (G) the use will not result in the significant removal of adjacent contracted land from agricultural or open-space use; (H) the project complies with the provisions of the Surface Mine and Reclamation Act (SMARA) and State regulations; (I) the final approved Reclamation Plan: (i) complies with SMARA §2772 and 2773, and any other applicable provisions; (ii) complies with applicable requirements of State regulations (CCR §3500-3505, and §3700-3713); (iii) is consistent with County Zoning Code Chapter 21.88 (Surface Mining and Reclamation) and the County's General Plan and any applicable resource plan or element; (iv) has been reviewed pursuant to CEQA and the County's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible; (v) restores land and/or resources such as water bodies to be reclaimed to a condition that is compatible with, and blends in with, the surrounding natural environments, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values; (vi) restores mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan; and, (vii) a written response has been prepared to the State Department of Conservation, describing the disposition of major issues raised by the Department and that where the County's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail why specific comments and suggestions were not accepted; 3) ordered the filing of a Notice of Determination with the Stanislaus County Clerk-Recorders Office pursuant to California Public Resources Code §21152 and CEQA Guidelines §15075; 4) approved Use Permit Application No. 2008-03 - Delaney Aggregates, subject to the attached Conditions of Approval and Mitigation Measures; 5) approved the attached Reclamation Plan for Use Permit Application No. 2008-03 - Delaney Aggregates, subject to compliance with the Conditions of Approval and Mitigation Measures; 6) ordered the filing of a Notice of Reclamation Plan Approval with the Stanislaus County Clerk-Recorders Office pursuant to the California Public Resources Code §2772.7.; and, 7) approved the proposed Financial Assurance for Use Permit Application No. 2008-03 - Delaney Aggregates, in accordance with California Public Resources Code §2770 – Planning

2009-204

Recessed at 10:58

Reconvened at 11:05

Grover/Monteith unan. **B10** Acknowledged the award for up to \$18 million from the State of California, Corrections Standards Authority and directed County staff to negotiate a contract with the State to build the Juvenile Youth Treatment Facility (YTF) with funds under the Department of Corrections 2007 Local Youthful Offender Rehabilitative Facility Construction Funding Program (SB81); authorized the release of Requests for Proposals (RFP's) for professional services such as Architect, Surveyor, Soils Engineer, Phase I Environmental and the required Property Appraisal; approved the Juvenile Justice Facilities Master Plan created as collaboration between the CEO, Probation Department, and consultant, Daniel C. Smith & Associates, Inc.; directed the Auditor-Controller to increase appropriations and estimated revenue in the Juvenile Hall Commitment Facility Capital Project's budget by \$2,179,980, to fund the cost of the planning and design phase and authorized the Auditor-Controller to increase appropriations by \$699,724 in the Youthful Offender Block Grant fund, and to transfer \$699,724 into the project budget from the Youthful Offender Block Grant for this phase of the project, as detailed in the Budget Journal

form; and, authorized the Project Manager to negotiate and sign contracts, work authorizations, and purchase orders for professional services needed in this phase of the project on behalf of the Board as long as they are within the project budget and staff will return to the Board for approval of the contract for the design work as well as the recommended contract with the State – CEO 2009-202

Grover/O'Brien unan. **B11** Accepted a report from the Agricultural Advisory Board on the use of tertiary wastewater for Agricultural Purposes – Agricultural Commissioner/Agricultural Advisory Board 2009-203

Corr 1 Referred to the Department of Planning and Community Development, a letter from the U.S. Department of Housing and Urban Development regarding the awarding of \$9,744,482 to Stanislaus County for the action plan amendment for the Neighborhood Stabilization Program (NSP).

Corr 2 Referred to the Agricultural Commission/Sealer of Weights and Measures; University of California Cooperative Extension; and the Department of Planning and Community Development, a letter from the California Natural Resources Agency regarding a petition for change to consolidate the State Water Project, Central Valley Project and Friant authorized places of use.

Corr 3 Acknowledged receipt of claims and referred to the CEO-Risk Management Division the following claims: Alexander D. Gevargis and Fred L. Winters.

Supervisor Grover reported that he and Supervisor Chiesa went to see a garden project on Friday afternoon in which young people from the west side of Modesto are introduced to gardening on land owned by the Heifer Project. The produce from the garden will be sold on Thursday afternoons in Mellis Park at the Farmers Market. He noted that it is a good example of positive mentorship and what the community is working on.

Chairman DeMartini reported that the second meeting of the Westley Triangle Business Owners was held last night. He thanked the Public Works Department for their help in putting this meeting together. This group is developing a plan for landscape, lighting and road improvements to attract more business in the Westley area. These improvements will be funded 100% by the business owners. He also noted that he and Supervisor Chiesa will be going out with the Probation Department this afternoon to see the new drug sniffing dog in action.

The CEO reported that the \$9.6 million check to DMC was delivered on Friday afternoon and that County staff is continuing to work with Tenant Corp and our federal representatives in structuring a solution for the Physician Residency Program. He reported that the State did not reach the “trigger” level of federal funds needed to avoid an additional \$1.8 billion in State taxes and \$948 million in program cuts. He believes that we have already seen the worst of the local government cuts.

Adjourned at 12:12 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.)