RECOMMENDED ACTION & JUSTIFICATION:

Conduct a Public Hearing and approve a resolution adopting a Negative Declaration for County acquisition of property on Ranchito Drive, County of Mariposa for future use and development of a wastewater treatment facility to serve Sewer Zone I (the initial study was written to address potential impacts of purchasing APN 01-260-16); Authorizing acquisition of APN 001-260-16 in the amount of $202,500, pay broker’s commission of $22,500 and usual and customary closing costs estimated at $2,200; Authorize County Administrative Officer to execute all documents associated with the purchase; Authorizing location of the public improvement, the Don Pedro wastewater treatment facility on Williamson Act contracted land, APN’s 001-260-15 and 001-260-16, pursuant to findings under Section 51292 of the Government Code.

The environmental review document only addresses the potential impacts of the County’s purchase of real property, as detailed design work has not been started. The actual design, development and construction of the wastewater treatment facility will undergo more site-specific and project-specific environmental review in the future if property is purchased. The County will need to undergo additional public hearings for this environmental review and needed land use and zoning changes in the future. The adoption of a Negative Declaration does not commit the Board to purchase the specified parcel. APN 001-260-16 is directly adjacent to the County-owned parcel APN 001-260-15 and is needed acreage to provide for a complete treatment, storage and disposal facility at one location and will result in complete control of the disposal of treated effluent at the least cost to property owners served by the facility as explained in the May 20, 2004 memorandum from Fred Solomon attached hereto.

The parcel previously acquired by the County and the parcel to be acquired, are contracted land under the Williamson Act. To utilize the land for the public improvement of a wastewater treatment facility requires notification of the State Department of Conservation which, under Government Code Section 51291 has 30 days to comment on the proposed use, and the making of certain findings under Section 51292 of the Code. The notification and findings were transmitted to the Department of Conservation on April 20, 2004 and written response was received from the Department of Conservation on May 20, 2004. A report dated May 20, 2004 from Fred Solomon outlines the findings required under Section 51292 of the Government Code as well as additional findings which are applicable to this project. A copy of the County’s response to the Department of Conservation’s letter, dated May 26, 2004 is attached.

Notice of the public hearing was published in the May 26 edition of the Gazette newspaper, was posted at the County Courthouse, the Planning website, at the Lake Don Pedro Market and with the County Clerk, was mailed to all property owners within 600 feet of the property to be acquired, and sent to the Department of Conservation and the Agricultural Advisory Committee.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
None, relative to the environmental determination and location of a public Improvement on Williamson Act contracted land. The Board, on February 17, 2004, authorized application for a loan from the United States Department of Agriculture; authorized a contract for the design of the facility on February 24, 2004 and on April 6, 2004; and authorized a contract for environmental services and a cultural resources study.
ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Alternatives include seeking other property to dispose of treated effluent from the wastewater treatment facility to be located on an adjacent property owned by the County. The consequences of this action are the potential loss of effluent disposal control, additional costs to property owners for increased level of treatment of effluent, and additional costs for transmission of effluent to existing sewer lines.

Financial Impact? ( ) Yes ( X ) No ( ) Partially Funded
Recurring Cost: $
Budgeted In Current FY? ( ) Yes ( X ) No ( ) Partially Funded
Amount in Budget: $1,266,738
Additional Funding Needed: $
Source: ( ) General ( ) Other

List Attachments, number pages consecutively
1. Initial Study & Negative Declaration
2. May 20, 2004 memo from Fred Solomon
3. Appraisal Report
4. Acquisition Agreement dated March 3, 004
5. Letter to State Department of Conservation dated April 20, 2004
8. Response to Department of Conservation dated May 26, 2004

CLERK'S USE ONLY:
Res. No.: 04-301 Ord. No. _____ Vote – Ayes: 5 Noes: ____
Absent: _____ Approved
( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date: 
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _______ Deputy

COUNTY ADMINISTRATIVE OFFICER:
( ) Requested Action Recommended
No Opinion
Comments:

CAO: ___
A RESOLUTION ADOPTING A NEGATIVE DECLARATION, AUTHORIZING THE PURCHASE OF REAL PROPERTY, AND AUTHORIZING LOCATION OF A PUBLIC IMPROVEMENT ON WILLIAMSON ACT CONTRACTED LAND

WHEREAS, the County of Mariposa, has been issued a Cease and Desist Order by the California Regional Water Quality Control Board related to the operation of the Don Pedro wastewater treatment plant; and,

WHEREAS, the Mariposa County Board of Supervisors will construct a new wastewater treatment plant to serve residents of Sewer Zone 1; and,

WHEREAS, the County of Mariposa has determined the need to acquire additional acreage to supplement the acquisition of APN 001-260-15; and

WHEREAS, the Board of Supervisors has negotiated an agreement for the acquisition of APN 001-260-16; and,

WHEREAS, the Board of Supervisors finds that purchase of the property for an amount $2,500 in excess of the appraised Fair Market Value of $200,000 is justified to retain control of effluent disposal, to avoid costly transmission of effluent to an alternative disposal area, to reduce the cost of providing a tertiary level of treatment of waste, and to assure County control of access for the purpose of future maintenance of the facility; and

WHEREAS, the Board of Supervisors finds that the location of a public improvement, the proposed Don Pedro Wastewater Treatment Facility, on APN 001-260-15 and APN 001-260-16, which parcels are located on Williamson Act contracted land, is justified pursuant to Government Code Section 51292 in that:

a) The location of the acquisition parcels is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve. Land was investigated for purchase in and around Sewer Zone 1. The decision to acquire the subject parcels is based on proximity to the existing waste collection system, the suitability of the topography of the property for the proposed treatment facility, property with the acreage needed for the development of the proposed treatment facility, land uses which would be compatible with the proposed treatment facility, and a location which would result in an economically viable treatment facility construction cost. Therefore, the fact that the land is in an agricultural preserve was not a consideration for acquisition at a lower cost.

b) There is no land within the Lake Don Pedro Subdivision or adjacent to the Subdivision, in reasonable proximity to the existing waste collection system for Sewer Zone 1 and outside the agricultural preserve, on which it is feasible to locate the public improvement. Only the parcel acquired and the parcel to be acquired meet
constraints dictated by topography, size, land use compatibility, and proximity to the existing wastewater collection system; and,

WHEREAS, the staff of the California Regional Water Quality Control Board has advised the County that the conduct of cattle grazing on the land on which the effluent is disposed is a beneficial use; and, the acquisition agreement allows the use of the land for cattle grazing for a period of 10 years; and,

WHEREAS, replacement of the existing wastewater treatment plant will have a beneficial impact on the ground water within the agricultural preserve.

NOW THEREFORE, BE IT RESOLVED that the Mariposa Board of Supervisors takes the following actions:

1. Adopts a Negative Declaration for the purchase of APN 001-260-16
2. Authorizes the purchase of APN 001-260-16 from Mr. and Mrs. T. Erickson in the amount of $202,500, payment of the Real Estate Brokers Commission of $22,500, and payment of the usual and customary closing costs estimated at $2,200.
3. Authorizes the location of a public improvement, the Don Pedro Wastewater Treatment Facility on Williamson Act contracted land.

PASSED AND ADOPTED by the Mariposa County Board of Supervisors this 22nd day of June, 2004, by the following vote:

AYES: STETSON, BALMAIN, BIBBY, PARKER, PICKARD

NOES: NONE

ABSENT: NONE

ABSTAINED: NONE

GARRY R. PARKER, Chair
Mariposa County Board of Supervisors

ATTEST:

MARGIE WILLIAMS, Clerk of Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

THOMAS P. GUARINO, County Counsel
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JIM PETROPOULOS, Public Works Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING RELATIVE TO THE ADOPTION OF A NEGATIVE DECLARATION, AUTHORIZING PURCHASE OF REAL PROPERTY, AND AUTHORIZING LOCATION OF A PUBLIC IMPROVEMENT ON WILLIAMSON ACT CONTRACTED LAND
Resolution No. 04-301

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on June 22, 2004

ACTION AND VOTE:

11:02 a.m. Dana Hertfelder, Assistant Public Works Director, appeared on behalf of Jim Petropulos, Public Works Director;
PUBLIC HEARING Relative for Approval of a Resolution Adopting a Negative Declaration for County Acquisition of Property on Ranchito Drive, County of Mariposa for Future Use and Development of a Wastewater Treatment Facility to Serve Sewer Zone I; Authorizing Acquisition of APN 001-260-16 in the Amount of $202,500, Paying Broker’s Commission of $22,500, and Usual and Customary Closing Costs Estimated at $2,200; Authorizing County Administrative Officer to Execute all Documents Associated with the Purchase; Authorizing Location of the Public Improvement, the Don Pedro Wastewater Treatment Facility on Williamson Act Contracted Land, APN 001-260-15 and 001-260-16, Pursuant to Findings Under Section 51292 of the Government Code
BOARD ACTION: Fred Solomon, Project Consultant, presented the staff report, and he advised that the recommended actions today do not implement the project itself. He noted that findings are included in the staff report to justify the purchase price of the parcel and for the proposed location of the wastewater treatment facility on parcels which are located on Williamson Act contracted land; and he advised of correspondence that was received. He advised of the concerns expressed in the correspondence received from the Farm Bureau and of his response and of correspondence received from the Department of Conservation.

The public portion of the hearing was opened and input was provided by the following:
- John Gamper, representing California Farm Bureau Federated on behalf of the Mariposa County Farm Bureau, expressed concern with protection of the Williamson Act contracted lands. He cited code
sections relative to eminent domain in relation to Williamson Act contracts and the acquisition of land and commented on the required findings. He asked how the previously acquired 40-acre parcel will be used and whether the use would be compatible with Williamson Act. He also expressed concerns with the appraisal and the comparables that were used. He stated he would like to see Williamson Act contracted land protected so that it can’t be parcelled into smaller lots that could become home sites. Supervisor Bibby asked how he would deal with historical parcels that are split off. John advised that he supports only allowing one residential building permit per Williamson Act contract.

Kevin Gile stated he is a resident of the area and expressed concern with the notification process. He advised that they were notified of two meetings that were held last year, but were not notified of this hearing. He asked that all of the owners be notified in the future. He noted that the recommended action would spend funds to acquire land that will need to be paid by a future assessment. He asked what would happen to the land if the assessment ballot vote doesn’t pass.

- Cathie Pierce-Ragghianti, cattle rancher and Farm Bureau Director and taxpayer, said she is not sure how the action to purchase the first 40-acre parcel got by without their knowing. She expressed concern with the appraisal on the property and the comparables that were used. She suggested that another appraisal be obtained from someone who is familiar with agriculture land. She stated that if this is taken out of the Williamson Act contract, she would like to see some way to replace it with another parcel. She stated she disagrees with the negotiations that allow the property owner to lease-back the land for pasture for the cattle for ten years at no cost. She noted that spraying the water on the land will result in permanent pasture and that brings a high rent in the valley. She requested that the Farm Bureau be advised of any future changes that are proposed for Williamson Act contracted lands. She also stated that their office did not receive the response from Fred Solomon to their correspondence. Fred Solomon advised that he personally hand-delivered the response to the Farm Bureau Office.

- Paul Chapman expressed concern with the preservation of agricultural land; and he protested the purchase of this land at such an exorbitant price. He stated he feels it will be the non-resident developer that will get the most out of it. He questioned why the “defunct golf course” area isn’t being used for the project. He asked who has paid the penalties for the splitting of the original parcel. He stated he hopes the Board will use land that is not in the Williamson Act for this project.

The public portion of the hearing was closed and the Board commenced with deliberations. Sarah Williams, Interim Planning Director, asked for a recess. Chairman Parker provided a reminder that the Board is in the deliberation phase of the hearing and is unable to discuss this matter outside of the hearing.

11:42 a.m. Recess

11:56 a.m. Tom Guarino, County Counsel, addressed the following issues that were raised:

- Issue of Government Code Section 51295 relative to eminent domain. He advised that the Board did not initiate eminent domain proceedings.

- Concerns relative to the appraisal and acreage of 39 to 40 acres and whether a single-family dwelling could be constructed. He advised that the Contract permits compatible use and the appraiser took that and the single-family dwelling issue into consideration. He advised that it was found out later that the 39 acres was increased to 40 by a lot line adjustment. He noted that the appraisal was done by a licensed appraiser and the questions were previously raised and the appraisal was not changed.

- Pulling the land from the Williamson Act Contract to construct the wastewater treatment facility. He advised that if the land is not used for the facility, it would still be subject to the Williamson Act. He advised that the recommended action today proceeds with allowing a public facility on the land. He noted that the Board has the authority to determine what the compatible uses are for the land. When it is determined where to locate the facility, another action will need to be taken to determine the compatible use, i.e., public wastewater treatment facility.

- Use of the land for grazing purposes. He advised that this use was found to be compatible by the State, and was previously negotiated with the seller. Completion of these actions will occur with the action to come back relative to determining compatible use.

Tom Guarino responded to questions from the Board relative to his review of the Willits vs. Mendocino case that was referred to; relative to the lot line adjustment; and relative to the Land Conservation District. Tom also advised that he has not issued any written opinions on GC 51295 for the public or otherwise.
Dana Hertfelder responded to questions from the Board relative to timeframes for the process; notification to the property owners; request for consideration of use of the golf course for the project; and relative to the Proposition 218 assessment process. Staff also responded to questions from the Board relative to the Cease and Desist Order that the State issued for this area and relative to the amount of land that would actually be used for the project and the portion that would remain for grazing. The hearing was continued for a lunch break, and Chairman Parker again reminded everyone that the Board is in the deliberation phase of the hearing and is unable to discuss the matter outside of the hearing process.

12:19 p.m. Lunch

1:36 p.m. The Board continued with deliberations. Tom Guarino provided information on his review of the Willits vs. Mendocino case and the eminent domain issue. He advised that the Board is not looking at a cancellation of the Williamson Act contract, and that would require a noticed, public hearing. The Board is going through the process for the wastewater treatment facility. He stated he feels that this type of purchase is permitted; and that the Board’s action is less than that taken by Mendocino County. He suggested that direction be given to staff to bring back a resolution with findings that the use of the land for the wastewater treatment facility is compatible with the current contract.

(M)Balmain, (S)Pickard, Res. 04-301 was adopted adopting a Negative Declaration for County acquisition of property on Ranchito Drive, County of Mariposa for future use and development of a wastewater treatment facility to serve Sewer Zone I; authorizing acquisition of APN 001-260-16 in the amount of $202,500, paying Broker’s commission of $22,500, and usual and customary closing costs estimated at $2,200; authorizing County Administrative Officer to execute all documents associated with the purchase; authorizing location of the public improvement, the Don Pedro Wastewater Treatment Facility on Williamson Act contracted land, APN 001-260-15 and 001-260-16, pursuant to findings under Section 51292 of the Government Code; and direction was given for staff to bring back a resolution with findings that the use of the land for the wastewater treatment facility is compatible with the current contract. Chairman Parker requested that all of the property owners receive notification of actions for this project in the future versus just those in the 600-foot area. Ayes: Unanimous. The hearing was closed.

cc: Mary Hodson, Deputy County Administrative Officer
    Tom Guarino, County Counsel
    Sarah Williams, Interim Planning Director
    Charles Mosher, Health Officer
    File