

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

NOVEMBER 20, 2002

REGULAR MEETING 9:00 A.M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

RICHARD MOBRAATEN, **PRESIDENT**
MICHAEL WINN, **VICE PRESIDENT**
ROBERT BLAIR, **DIRECTOR**
JUDITH WIRSING, **DIRECTOR**
CLIFFORD TROTTER, **DIRECTOR**

STAFF

DOUGLAS JONES, **GENERAL MANAGER**
DONNA JOHNSON, **SEC. TO THE BOARD**
JON SEITZ, **GENERAL COUNSEL**

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson.

A. CALL TO ORDER AND FLAG SALUTE

President Mobraaten called the meeting to order at 9:02 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all Board members were present.

C. PUBLIC COMMENTS PERIOD

PUBLIC COMMENTS

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board.

Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.

The following members of the public spoke:

John Snyder, Outside District –Advised the Board about the Rate Study meeting to be held Nov. 22, 2002.

D. ADMINISTRATIVE ITEMS (The following may be discussed and action may be taken by the Board.)

D-1) WATER SERVICE MORATORIUM/RESTRICTION

Review Water Code Section 350 on water shortage emergency and moratorium

Jon Seitz, District Legal Counsel, addressed the Board and the audience. He explained that the District must provide water upon request, under reasonable rules and regulations, except when the District has declared a water shortage emergency pursuant to Water Code §350. He read the following into the record:

“The governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, may declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.”

Mr. Seitz told the Board what would be in the reports.

1. Total water demand of water use of existing customers, which include existing Intent-to-Serve letters issued.
2. Analyze total supplies from our existing sources, including groundwater basin.
3. Look at projected demand for water, possibly the Urban Management Plan.
4. Analyze threatened shortages to using existing users
5. If studies concluded that the total water demand of our existing customers met or exceeds our existing supplies
6. If studies concluded that there are existing impediments to our water supply, that there is a threatened limitation and that water needs would not meet our projected demand, the Board could enact conservation measures, rules and regulations regarding how we plan to use our water resources to supply our future demand.

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D-1) WATER SERVICE MORATORIUM/RESTRICTION The procedures for making that finding:
(Continued)

1. Review the studies
2. Take a position, declaring a water emergency as a shortage or projected shortage
3. Adopt rules and regulations to address those declarations or findings

Director Wirsing asked about the following:

“The regulations and restrictions shall thereafter be and remain in full force and effect during the period of the emergency and until the supply of water available for distribution within such area has been replenished or augmented.”

There was no public comment.

Director Trotter made the motion to initiate the study as outlined above by Mr. Seitz. Director Winn seconded the motion with the addition of the staff completing the Urban Water Management Plan. The Board unanimously agreed to direct staff to have study presented by the second meeting in February. Vote 5-0

D-2) REQUEST FOR SERVICE – TRACT 2513 (COOL)

Request for water and sewer service for a 7-unit development on S. Frontage Rd.

Steve Cool, developer – discussed the proposed project (Tract 2513) with the Board. Director Wirsing made the motion to table all new hook-ups so this Board can aggressively pursue supplemental water. Director Trotter seconded the motion with the addition of tabling Intent-to-Serve until study in February and April release of court orders.

The following members of the public spoke after Director Wirsing’s motion:

Jim McGillis, Nipomo surveyor – concerned about projects in process being held up.

Jim Tefft, Outside District – concerned about motion putting everything on hold. Seems to be injustice to those trying to develop.

Greg Nester, developer – Asked the Board for a decision on annexations.

Vote 2-3 with Directors Blair, Winn and Mobraaten voting no. Motion failed.

Director Winn made a motion that after public comment on each of the items, all projects within D-2 through D-9 be approved for Intent-to-Serve letters that they deserve under the law, but that no new applications for Intent-to-Serve permits be accepted. Director Wirsing seconded the motion.

The following members of the public spoke after Director Winn’s motion:

Jim McGillis, Nipomo surveyor – asked about a request for water for a single family home will be denied.

Mr. Seitz explained that the Board (1) is not denying Intent-to-Serve letters but deferring until the studies come in and (2) directs staff to come back with a legal analysis and the appropriate findings whether or not they will go forward with the latter concept of deferring Intent-to-Serve letters until studies are in.

Director Winn added Number 3 – to issue Intent-to-Serve letters for Items D-2 through D-9 and those items that are ministerial would continue as usual.

Greg Nester, developer – Asked the motion to consider annexations that might be valid. Our project is adjacent to NCS boundary on three sides.

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D-2) REQUEST FOR SERVICE – TRACT 2513 (COOL) {continued}

Homer Fox, Inside District – Thinks the motion is illegal.

Glen Corbin, Nipomo resident – Confused about single lots or subdivision

Director Winn withdrew the first motion.

Director Winn made a motion to approve Items D-2 through D-9 as one unit. Director Blair seconded the motion.

The following members of the public spoke after Director Winn':

Jim McGillis, Nipomo surveyor – Asked to consider D-9 as Tract 2516 rather than the original tract number of 1755.

Ed Eby, Inside District – Thinks considering all requests for Intent-to-Serve in one motion is inconsistent with scrutiny the Board has given previous cases.

Vote 2-3 with Directors Wirsing, Trotter and Mobraaten voting no. Motion failed.

The Board decided to go through each item separately.

Upon motion of Director Blair and seconded by Director Winn, the Board approved Tract 2513 with conditions as outlined in the Board letter.

There was no further public comment. Vote 4-1 with Director Wirsing voting no.

D-3) REQUEST FOR SERVICE – TRACT 2514 (COOL)

Request for water and sewer service for an 8-unit development on S. Frontage Rd.

Upon motion of Director Blair and seconded by Director Winn, the Board approved Tract 2514 with conditions as outlined in the Board letter.

There was no public comment. Vote 4-1 with Director Wirsing voting no.

D-4) REQUEST FOR SERVICE- NIPOMO VILLAGE PLAZA APN 092-572-16...(NEWMAN)

Request for water & sewer for approx. 300,000+ square feet of comm/ind dev at Juniper and Mary

Mr. George Newman described the proposed project at Juniper and Mary Streets.

The following member of the public spoke:

Glen Corbin, Nipomo resident – Agreed with this planned development

Upon motion of Director Winn and seconded by Director Blair, the Board approved an Intent-to-Serve letter for Nipomo Village Plaza APN 092-572-016.... with the deletion of Section P-6 parcel. Vote 3-2 with Directors Wirsing and Trotter voting no.

D-5) REQUEST FOR SERVICE – TRACT 2508 (SILVA)

Request for water and sewer service for a 5-lot development on Butterfly Lane

The Board discussed a request from EDA, representing Roger Silva, for water and sewer service for a 5-lot development on Butterfly Lane.

There was no public comment.

Upon motion of Director Winn and seconded by Director Blair, the Board approved an Intent-to-Serve letter for Tract 2508. Vote 3-2 with Directors Wirsing & Trotter voting no.

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- D-6) REQUEST FOR SERVICE – PARCEL MAP CO 02-0113 (ROBINSON)
Request for water service for a commercial development at N. Frontage at Sandydale
The Board discussed a request from Mr. Bob Robinson of Santa Barbara for water service for a commercial development at N. Frontage and Sandydale.
Bob Robinson, Santa Barbara developer – discussed his project with the Board.
There was no other public comment.
Upon motion of Director Blair and seconded by Director Winn, the Board unanimously approved an Intent-to-Serve letter for Parcel Map CO 02-0113. Vote 5-0
- D-7) REQUEST FOR SERVICE – TRACT 1876 (SANSONE)
Request for water and sewer service for a 22-lot development on South Oakglen Avenue
The Board discussed a request from Mr. Dave Sansone for water and sewer service for a 22-lot development on South Oakglen Avenue.
There was no public comment.
Upon motion of Director Winn and seconded by Director Blair, the Board approved an Intent-to-Serve letter for Tract 1876. Vote 3-2 with Directors Wirsing & Trotter voting no.
- D-8) REQUEST FOR SERVICE – APN 090-135-006 (SPENCER)
Request for water & sewer service for a commercial lot on Tefft Street between Wilson & Mallagh
The Board discussed a request from Mr. Robert Spencer for water and sewer service for a commercial development on Tefft St. between Wilson & Mallagh.
Robert Spencer, developer – described his project
The following members of the public spoke:
Jim Tefft, Nipomo resident – Supports the project
Larry, Vierheilig, Vice Chair of NCAC –NCAC recommended this project for approval.
Upon motion of Director Winn and seconded by Director Blair, the Board approved an Intent-to-Serve letter for APN 090-135-006, a furniture store with apartments above.
Vote 4-1 with Director Wirsing voting no.
- D-9) REQUEST FOR SERVICE – TRACT 1755 (WILL)
Request for water & sewer service for a 9 lot development on South Oakglen Avenue
The Board discussed a request from Mr. John Will for water and sewer service for a 9-lot development on Mads Place and South Oakglen Avenue. The tract number has changed from Tract 1755 to Tract 2516.
Jim McGillis described the project to the Board.
There was no public comment.
Upon motion of Director Winn and seconded by Director Blair, the Board unanimously approved an Intent-to-Serve letter for Tract 2516. Vote 5-0

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D-10) REQUEST FOR ANNEXATION – TRACT 2499 (LEM)

Request to annex an 18-lot development on 8 acres on Pomeroy Road near Waypoint

The Board discussed a request from Greg Nester, representing Mr. Hoy Lem, for annexation for an 18-lot development on Pomeroy Road near Waypoint Drive.

Greg Nester, developer for Tract 2499, asked the Board for a clear view for annexation or denial.

Director Wirsing made a motion to table the annexation until more information from Santa Maria. Director Trotter seconded the motion. Vote 2-3 with Directors Blair, Winn and Mobraaten voting no.

Director Winn made the motion to instruct staff to prepare an annexation agreement for the applicant. Director Blair seconded the motion. Vote 3-2 with Directors Trotter and Wirsing voting no.

D-11) REQUEST FOR ANNEXATION – TRACT 2384 (PUDWILL)

Request to annex an 8-lot development on 40 acres at Dawn & Sun Dale

The Board discussed a request from Greg Nester, representing Mr. Jim Pudwill, for annexation for an 8-lot development at Dawn and Sun Dale Way. Mr. Greg Nester described the project.

Director Winn made a motion to instruct staff to prepare an annex. agreement for the applicant. Director Blair seconded the motion. Vote 4-1 with Director Wirsing voting no.

D-12) REQUEST FOR ANNEXATION – OAKRIDGE (CANADA RANCH) (NEWMAN)

Request to annex proposed Oakridge development
285 acres north of Sun Dale between Hetrick Rd & Hwy 101

President Mobraaten excused himself from the discussion and vote for possible conflict of interest.

The following members of the public spoke:

George Newman, developer - described the proposed project for the property he is requesting to annex into the District.

Larry Vierheilig, vice chair of the NCAC – NCAC approved project in concept

Ed Eby, Inside the District – read a letter to the Board requesting no more annexation until a reliable supply of low cost water can be assured for current NCSD customers.

Director Blair does not like the project. Not fair that Woodlands was turned down just to approve this project.

Director Trotter feels it is premature for annexation.

Director Winn made the motion to table this annexation request until a comprehensive plan is presented to the District, including a supplemental water supply outside the basin not in the Nipomo Mesa Sub-area.

Director Wirsing seconded the motion. Vote 3-1 with Director Blair voting no.

President Mobraaten called a break at 11:55 a.m. and reconvened at 12:02: p.m.

- D-13) ASHLAND SEWER REIMBURSEMENT – 092-153-044 (JAKUBOWSKI)
Request to connect to Ashland sewer line

A request was received from Mr. Antony Jakubowski for consideration to connect his property to the sewer line on Ashland Lane for a proposed granny unit on his property. There was no public comment.

Upon motion of Director Winn and seconded by Director Trotter, the Board unanimously agreed to allow the connection of the Southland Woods Lane property to the Ashland Lane sewer line with customer to pay the existing reimbursement fees of \$9,625.27 plus \$2,500 Sewer Capacity Fee. Vote 5-0.

E. OTHER BUSINESS

- E-1) PROPOSED ROBERTSON ANNEXATION ENGINEERING STUDY– LYN RD AREA
Consider Engineering Study for the water infrastructure for the proposed annexation

The Board discussed the proposed annexation study requested by several property owners in the Lyn Road area, approx. 60 acres.

The following members of the public spoke:

Ed Eby, Inside District- Is concerned about water supply.

Upon motion of Director Winn and seconded by Director Trotter, the Board approved the proposal from Garing, Taylor and Associates to review the potential water infrastructure for the Robertson proposed annexation. Vote 5-0 with Directors Wirsing and Blair abstaining.

- E-2) INTENT-TO-SERVE -ADMINISTRATIVE APPROVAL OF 4 OR LESS RESIDENTIAL UNITS
Review administrative approval of Intent-to-Serve for 4 or less residential units

The Board discussed the draft Policy and Guidelines for District Water and Sewer Service. Some changes were suggested.

There was no public comment.

The policy, incorporating the proposed changes, will be brought back to a future meeting.

- E-3) INITIATE STREET LANDSCAPING POWER
Consider resolution to establish District street landscaping powers beginning January 1, 2003

The Board discussed a resolution to install, plant and maintain landscaping with public street rights-of way or easements with the Nipomo Community Services District

The following members of the public spoke:

Larry Vierheilig, 950 Waypoint, Inside District – agrees with the concept but asked if property owners would be forced to pay.

Tom Geaslen, Inside District – asked about existing development

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- E-4) REVIEW BOARD OF DIRECTORS BY-LAWS
Review Section 5.4 of the District's Board of Directors By-Laws (Consider censure – Dir. Blair)
There was much Board discussion on the censure motion proposed by Director Winn.
The following members of the public spoke:

Larry Vierheilig, 950 Waypoint, Inside District – commented about exercising humility
Ed Eby, Inside District – Asked that the Board vote no on the resolution

Tom Geaslen, Inside District – Free speech

Carlo Alfano, Inside District – Agrees with free speech

Director Winn made a motion to have the suggested censure motion appended to the Minutes. The motion died for a lack of second.

The Board agreed that caution could be exercised.

Upon motion of Director Winn and seconded by Director Blair, the Board unanimously approved Resolution 2002-841. Vote 5-0

RESOLUTION NO. 2002-841

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE NIPOMO COMMUNITY SERVICES DISTRICT

AUTHORIZING THE DISTRICT TO INSTALL OR PLANT AND MAINTAIN LANDSCAPING WITHIN

PUBLIC STREET RIGHTS-OF-WAY OR EASEMENTS WITHIN THE NIPOMO COMMUNITY

SERVICES DISTRICT

- F. **CONSENT AGENDA** *The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the Consent Agenda and will be considered separately. **Questions or clarification may be made by the Board members without removal from the Consent Agenda.** The recommendations for each item are noted in parenthesis.*

F-1) WARRANTS [RECOMMEND APPROVAL]

F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]

Minutes of November 6, 2002, Regular Board meeting

Upon motion of Director Winn and seconded by Director Blair, the Board unanimously approved the items on the Consent Agenda. Vote 5-0

G. **MANAGER'S REPORT**

Doug Jones, General Manager, presented information on the following:

G-1) LAFCO NOMINATIONS

G-2) SLO CHAPTER OF CSDA TRAINING SEMINAR

Also informed Board of Montecito Verde II meeting held November 19 in District office.

There were 32 people in attendance.

H. **COMMITTEE REPORTS**

There was no Committee Report.

I. **DIRECTORS COMMENTS**

Director Wirsing asked to agendize attorney fees.

She spoke to Chuck Stevenson who suggested that Pat Beck attend a January meeting to explain the process of the 2.3% growth cap.

Director Winn reported there would be no Water Forum in December.

WRAC will meet fires Wednesday in December

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Jon Seitz, District Legal Counsel, announced the need to go into Closed Session to discuss the following.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

- A. SMVWCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.
- B. SAVE THE MESA VS. NCSD CV 020181
- C. ANTICIPATED/INITIATE LITIGATION, ONE CASE

CONFERENCE WITH NEGOTIATOR GC§54956.8

- D. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR - DOUG JONES,
COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE. POSSIBLE LITIGATION INITIATION GC§549569

The Board came out of Closed Session. The Board gave instruction to the General Manager to negotiate. There was no reportable action.

ADJOURN

President Mobraaten adjourned the meeting at 1:52 p.m.

The next regular Board Meeting will be held on December 4, 2002, at 9:00 a.m.

Special Meeting to be held Nov. 22, 2002 at 9:00 a.m. to review rate study with consultant, Perry Louck, CPA