

# NIPOMO COMMUNITY SERVICES DISTRICT

## MINUTES

MAY 14, 2003

REGULAR MEETING 9:00 A.M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

### BOARD MEMBERS

MICHAEL WINN, **PRESIDENT**  
JUDITH WIRSING, **VICE PRESIDENT**  
ROBERT BLAIR, **DIRECTOR**  
CLIFFORD TROTTER, **DIRECTOR**  
LARRY VIERHEILIG, **DIRECTOR**

### STAFF

DOUG JONES, **GENERAL MANAGER**  
  
JON SEITZ, **GENERAL COUNSEL**

#### **A. CALL TO ORDER AND FLAG SALUTE**

President Winn called the meeting to order at 9:03 a.m. and let the flag salute.

#### **B. ROLL CALL**

At Roll Call, all Board members were present.

#### **C. PUBLIC COMMENTS PERIOD**

The following member of the public spoke:

Dick Mobraaten, NCS D customer – Garbage Company stole his orange recycle bin. He would like NCS D to look into using the blue recycle bins.

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

D-1) CONSIDER ALTERNATIVE SEWER SERVICE-TRACT 1802 AND 1856 (TRINCON)  
Review alternative to eliminate on-site sewer design and utilize District's WWTP to serve Tract 1802 and 1856  
President Winn requested that item D-2 be heard first because one of the presenters for item D-1 had not arrived. The Board of Directors unanimously agreed.

D-2) REVIEW CONCEPT DRAFT ANNEXATION AGREEMENT  
Review concept draft annexation agreement based on the District's new annexation policy  
The District Board of Directors heard this item before item D-1.  
District Legal Counsel, Jon Seitz, reviewed the conceptual draft annexation agreement with the Board of Directors. Typographical errors were noted on Section 7, 11 and 14.  
The following members of the public spoke:  
Ed Eby, NCS D customer – Handed out his comments to the Board of Directors. He is concerned about paragraph 8 of the agreement regarding adequate supply of water.  
Donna Mehlschau, applicant for annexation – Handed out her comments to the Board of Directors. She asked if all annexations have to pay for supplemental water even if they overly the basin. She also asked about the 80% of the O&M costs for capital infrastructure.  
Jon Seitz explained that there are two cost components 1) infrastructure from supplemental water source to NCS D distribution system and 2) NCS D distribution system to customers. NCS D has "doctrine of public trust" to negotiate the best deal on behalf of the annexation, even if the applicant is paying 100%.  
Jim Pudwill, applicant for annexation – He is not sure why he should get a bill for supplemental water when he has plenty of water on his property.  
Director Winn had modifications to Sections 5(a) and 8(2).  
Upon motion of Director Trotter and seconded by Director Wirsing, the Board unanimously approved the concept draft annexation agreement as modified. Vote 5-0 with Director Blair abstaining.

D-1) CONSIDER ALTERNATIVE SEWER SERVICE-TRACT 1802 AND 1856 (TRINCON)  
Review alternative to eliminate on-site sewer design and utilize District's WWTP to serve Tract 1802 and 1856  
The General Manager reviewed the request by Trincon.  
The following members of the public spoke:  
Scott Phillips, Regional Water Quality Control Board, presenter – Mr. Phillips made a presentation to the Board of Directors regarding the Basin Plan which is the "Rule Book" for Nipomo. The RWQCB is concerned about clean water and is not concerned about planning and growth issues. He stated that the connection of this project to the NCS D wastewater plant is supported by the Basin Plan. The second option is a centralized on-

site system, which is under the jurisdiction of the RWQCB. Maintenance of individual septic tanks would be deferred to SLO County.

Michael Hodge, Project Engineer, presenter – Project, as approved, can treat sewer on-site. If the District wants lift station, he would like process expedited. Director Winn said he would have liked to have considered water and sewer at the same time and asked Mr. Hodge, “How would sewer not be growth inducing?” Mr. Hodge responded, 1) it would be a force main and not a gravity main, therefore, it is difficult to connect to it, 2) the size of the pipe would be limited and 3) limit future hookups. He stated that Applicant does not have a problem with the condition that limits hookups only to his project. Mr. Hodge stated that a CEQA review is required.

District Legal Counsel stated that if the Board of Directors conceptually approved connection to NCSD’s wastewater facility, the project would have to be defined.

District Engineer, Jim Garing, made the following comments: 1) Who will maintain the on-site system? Mr. Garing’s recommendation is that the tract connect to the NCSD-WWTP 2) NCSD will reluctantly maintain the on-site if that is the Board’s desire, 3) There should be an agreement in place to do whatever is required to maintain the on-site system in the future and connect to NCSD if necessary. There is a White Paper written regarding the Basin Plan that states septic systems will fail.

Michael Hodge, Project Engineer, presenter-stated that percolation tests have been completed.

Ed Eby, NCSD customer - Stated that the non-growth inducing waterline construction has caused hardship cases to already show up. A sewer line could be growth inducing and cause other environmental issues.

Jim Kinninger, private citizen, not NCAC member – stated that there should be a limit on the amount of sewage that can be transported from project. CEQA will address these issues.

Eric Benham, developer – Tract is approved with an on-site community septic system. He stated that this could be eliminated and small systems could be installed to avoid discharge requirements. He is concerned about the timing.

A motion was made by Director Blair and seconded by Director Vierheilig, to approve the sewer force main to the treatment plant. Director Winn asked that the motion be amended to include that the CEQA study evaluate the lift station with a fall back on the on-site community septic system but eliminate the possibility of individual septic tank systems. District Legal Counsel stated that legal staff could not recommend maintenance responsibilities for septic tanks that treat 1 or 2 homes. There are too many legal issues. Director Blair and Director Vierheilig agreed to amend the motion to include Director Winn’s request. The vote was 5-0.

At 11:10 a.m a break was taken.

D-3) MEMORANDUM OF AGREEMENT FOR SERVICES

Request by President Winn to review possible Memorandum of Agreement with SLO County regarding Sphere of Influence

At 11:18 a.m. the meeting was back in order. President Winn presented his Draft Memorandum of Agreement. He stated that this version was in its infancy and would require many rewrites. He is suggesting two points 1) Not extending sewers west of the URL to remove the fear of growth and density and 2) in return the County agree not to move the URL west to maintain the rural character. The main thread is for NCSD and County to agree to not increase density in the west. Director Blair was concerned about restricting sewers in the Summit Station area. Director Winn stated that there would be no restrictions along the Highway 101 corridor. The MOA would be in effect until the next General Plan Update.

The following members of the public spoke:

Jim Kinninger, NCAC President – Stated he would like to review draft and bindingness of the agreement. He stated that the MOA should address all directions not just the west.

Rev. Ricardo Gonzalez- Stated he is concerned about the intent of the MOA and how can it be made permanent.

Director Winn stated that this would be a quasi-contract between NCSD, LAFCO and County and enforcement would be on Planning Department.

Ed Eby, NCSD resident – Asked what are limitations of NCSD's planning? Is it by code or choice? County Planners have expertise in this area.

Director Winn stated that NCSD plans for water and sewer. NCSD does not have the power to police the resource capacity and planning.

Guy Murray, NCSD resident – He asked if MOA would be enforceable by Cal Cities.

This was an informational item. Staff will continue to work on it. A draft MOA will be presented in the future.

D-4) REVIEW POSSIBLE FORMATION OF NCSD ADVISORY GROUP

Request by President Winn to review possible formation of NCSD Advisory Group

Director Winn presented his ideas about formation of NCSD Advisory Group. Directors Trotter, Vierheilg, Blair and Wirsing all expressed their opinion against the formation of an advisory group.

The following members of the public spoke:

Ed Eby, NCSD resident – Stated that special interests would be represented and this would create insulation between the Board and the public.

Jim Kinninger, NCAC President – Stated NCAC is representative of NCSD. NCAC is considering changing its bylaws so that a majority is district residents.

Donna Mills, NCSD customer and President of Lucia Mar Unified School District – Stated that the School's Facilities Advisory Committee works well.

No action was taken on this item.

D-5) APPROVAL OF CONTRACT FOR INCORPORATION FEASIBILITY STUDY

Review and approval of contract with The Davis Company to perform an incorporation feasibility study

The General Manger brought to the attention of the Board that the contract included a \$1,500 contingency amount. There were no public comments. Upon motion of Director Trotter and seconded by Director Vierheilg, the Board of Directors unanimously approved the contract. Vote 5-0.

D-6) DISTRICT INSTALLED SEWER LINE REIMBURSEMENT FEE

Second reading and adoption of Ordinance establishing District installed sewer line reimbursement fee

There were no public comments. Upon motion of Director Vierheilg and seconded by Director Wirsing, the Board of Directors unanimously approved Ordinance 2003-97. Vote 5-0.

**ORDINANCE 2003-97**  
**AN ORDINANCE OF THE BOARD OF DIRECTORS OF**  
**THE NIPOMO COMMUNITY SERVICES DISTRICT**  
**AMENDING CHAPTER 4.12 OF THE DISTRICT CODE**

**E. OTHER BUSINESS**

E-1) AMENDING DISTRICT BY-LAWS

Consider change of Board meeting time to 9:30 a.m. from 9:00 a.m.

The following members of the public spoke:

Donna Mills, Lucia Mar Unified School District – School District evening meetings are well attended. Closed session begins at 5:30 p.m. and regular session begins at 7:30 p.m.

Dick Mobraaten, NCSD Resident – When he attended School Board meetings, most attendees left after the school children completed their programs.

After Board discussion, staff was directed to bring back a resolution for the next meeting with the following schedule: First meeting of the month will be in the evening with closed

session beginning at 6:00 p.m. and regular session beginning at 7:00 p.m. and the second meeting of the month will be a morning meeting beginning at 9:00 a.m.

#### F. CONSENT AGENDA.

- F-1) WARRANTS [RECOMMEND APPROVAL]
- F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]  
Minutes of April 21, 2003, Special Board meeting  
Minutes of April 23, 2003, Regular and Special Board meeting
- F-3) TEFFT STREET WATER LINE PROJECT [RECOMMEND APPROVAL]  
Filing the Notice of Completion

Director Trotter expressed his concerns about the quality of the minutes. They should be more complete and well written. He supplied staff with an example from Arvin-Edison Water District. There were no public comments. Upon motion of Director Blair and seconded by Director Vierheilig, the Board unanimously approved the consent agenda. Vote 5-0.

#### G. MANAGER'S REPORT

- G-1) REQUEST BY JIM KINNINGER TO AGENDIZE LATENT POWER OF PARK & RECREATION

The following member of the public spoke:

Jim Kinninger, private citizen – requests that the District consider activating its latent power of Park and Recreation and consider holding title to or managing open space  
Ed Eby, NCSD Resident – He wanted to remind the Board that the proposed Nester open space is outside NCSD boundary.

Director Winn directed this request be sent to the New Services Committee to review funding aspects and come back to the Board with their recommendations. No other action was taken.

- G-2) BOARD OF DIRECTOR INTERVIEWS WITH THE DAVIS COMPANY

Mr. Davis would like to conduct Board of Director interviews on Tuesday, May 27. Staff will notify the Board of their scheduled time. There were no public comments.

#### H. COMMITTEE REPORTS

The Finance Committee met and reviewed the budget. They will email their comments to staff. A meeting is set up for Monday, May 19 at 9:00 a.m. to go over the budget with staff.

#### I. DIRECTORS COMMENTS

- I-1) UCLA SEMINAR

Director Vierheilig - New Services Committee will start working on request.

Director Wirsing - She is concerned about drainage basin in park and mosquito abatement.

Director Trotter - He and Director Winn met with 2 Blacklake residents regarding Blacklake representation at NCSD. Blacklake would like a presentation by Mike and Cliff on supplemental water.

Director Winn – He reported on CSDA meeting held the previous Friday evening, the WRAC tour will be May 21, Olde Towne groundbreaking ceremony is May 22. UCLA seminar was very good and recommends it to the other Board Members; it will be held in Sacramento in the fall.

The Board of Directors adjourned to Closed Session at 1:04 p.m.

#### 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. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR - DOUG JONES, CONFERENCE WITH NEGOTIATOR GC§54956.8 COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE.
- C. ANTICIPATED/INITIATE LITIGATION, ONE CASE

The Board came out of Closed Session. The Board was given an update on Item A. There was no reportable action. Item B, the Board of Directors unanimously approved the hiring of an appraiser to perform a Peer Review on the SLO County appraisal.

The meeting was adjourned at 1:35 p.m. Original document found at www.NoNewWipTax.com