

# NIPOMO COMMUNITY SERVICES DISTRICT

## MINUTES

JUNE 25, 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**  
DONNA JOHNSON, **BOARD SECRETARY**  
JON SEITZ, **GENERAL COUNSEL**

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

President Winn called the meeting to order at 9:05 a.m.

#### 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:

Greg Nester, In District resident – stated that he would like the Board to consider annexation of the Lem property even though the Board may not consider the Pudwell property.

Ron Witt, outside District – stated that he has property outside District boundaries and within Cal Cities Water service area and would like to receive sewer service from NCSD.

Jesse Hill, outside District – stated that the NCAC would like to have an NCSD Board member attend the next NCAC meeting when the new by-laws will be discussed.

The Board agreed to take Item E-1 out of order.

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

##### E-1) INCORPORATION STUDY UPDATE AND BOUNDARY REVIEW BY THE DAVIS COMPANY

Review proposed city boundaries for city incorporation feasibility study

Three options for boundaries for the incorporation of Nipomo were reviewed.

Director Trotter asked what it would take to change a boundary after it has been established.

[Mr. Jones said after the boundary has been established and the city was formed, the city council would request changes from LAFCo.]

Mr. Mike Davis of the Davis Company in Los Angeles gave a broad perspective of the feasibility study to incorporate Nipomo. The boundary needs to be determined in order to discover the costs and revenues involved.

The following members of the public spoke:

Ed Eby, In District resident – stated that he liked the boundary options discussed but would like to have different studies to break out areas to see the options of providing services, (cost vs. revenue).

Jesse Hill, outside NCSD - stated the Board should consider boundaries carefully. He stated that the work load would be great with different areas like the Coastal Commission and the State Park area.

Director Wirsing stated that she thought we should avoid the State Park area. She asked if the neighboring communities receive tax revenue from the park. [Ans-No]

President Winn stated that he could summarize some of the comments: That at least west of Highway 101, we need to break out the area west of the oil refinery for possible separate consideration. We need to break out the area south of Southland, and the Blacklake Village for separate consideration.

Director Blair stated that he could see taking the park area. It would be like a bed tax. A City Council will form to make the necessary decisions.

Mr. Davis clarified the areas questioned areas to break out separately.

Director Trotter asked Mr. Davis how far along he was in establishing the revenue for the different areas. [Mr. Davis much information is being found and will be delivered within 10 days. The revenue information determines how much the city can afford.]

Director Trotter stated that it is critical to know what the revenue is from each area

President Winn stated that if we were going to consider Option #3, then he would like to see several breakouts a) {within Sections 30, 31 & 36} b) everything east of Dana-Foothill Road.

Upon motion of Director Vierheilg and seconded by Director Blair, the Board agreed to request that Mr. Davis look at Option 3 and break out areas to such as the Sheehy Ranch, everything east of the back properties along Thompson, Rim Rock area, the area south of Southland, the Blacklake Village and the area west of the refinery. Mr. Davis asked for clarification of areas. Director Trotter stated that he would like different areas of the map in color for better understanding. Vote 5-0

- D-1) DRAFT MEMORANDUM OF AGREEMENT ON SPHERE OF INFLUENCE (SOI)  
Review draft agreement between SLO County and NCSD on District SOI boundary

Ed Eby, NCSD resident – stated that he questioned the purpose of the MOA. Any agreement between boards could not be binding. It provides no protection against growth and density inducements, which will happen when NCSD provides services outside the URL and offers no protection to NCSD customers of their water supply being oversubscribed. He stated that if the NCSD approved this MOA they would be approving a hollow document.

Vince McCarthy, in District resident – questioned the SOI and the city boundary [One has little to do with the other.]

Jesse Hill, outside District resident – stated that he thinks the MOA is a good idea but has concerns about making the agreement enforceable. He suggested that some entity with enforcement powers could come in to the forum.

Director Wirsing – asked if the Board should have been asked about the map for comments on each study area before the agreement was formulated. The District has been told that it has no land use powers but it seems this document gives the Board that input.

Jon Seitz, District Legal Counsel – stated that this MOA was put together with the assistance of LAFCo. LAFCo has the ability to set the SOI and to approve or deny annexations. The URL could be moved by a general plan amendment. It is meant to say that both parties want to maintain a rural character in the Nipomo area and LAFCo has the ability to condition Spheres of Influence to avoid urban sprawl and to make sure the service capabilities match the land use. This may become a tool for LAFCo to review and consider when the SOI is formed as far as the District's ability to provide service beyond the URL.

President Winn – stated that this MOA is not a contract but it is more than what we have now. Special districts now have more planning powers than in the past with the passing of the Landscape Water Conservation Act (AB 325) woven into the urban water management plans with the County Resource Management System. He stated that the sequence of the SOI versus the MOA – The MOA is essential to be adopted before this Board votes on the Sphere of Influence because if not in place, one set of decisions is made and if in place a different set of decisions would be made. This agreement would condition whether or not the County is willing to defer to the NCSD keeping the rural character west of area 7 particularly or whether it will just be an open door. In terms of policy the NCSD has an obligation to protect the water supply and this protects the supply better.

Director Wirsing – asked about Exhibit A #3 if NCSD and the Board of Supervisors agree, would we [NCSD] have more say in planning for land use, provision of public services, utility and road rights-of way, traffic etc. [President Winn stated that the County wanted that particular provision in the MOA to have a stronger voice than in the past.]

Director Vierheilig – stated that the agreement was non-enforceable and was concerned that the County doesn't follow through.

Director Blair – stated that he agrees with Mr. Eby and that this document is not necessary.

President Winn – explained the few changes he has suggested. He explained that Items #4 and 5 were written to compliment each other. In Item 4 it was suggested to change provide to "The District shall not extend future/new sewer services to Study Areas 5, 7, or 8, except in areas approved for reasons of public health, safety and welfare." In Item 6 it is suggested to add "The District's Sphere of Influence boundary and the County's Urban Reserve Line are intended to be coordinated such that the Urban Reserve Line shall not extend beyond the Sphere of Influence, except in areas where an emergency water situation has been documented..." After Board discussion, the Board agreed to add verbiage to Item 4 to include "The District shall not extend future/new sewer services to Study Areas 5, 7, or 8, with exceptions related to public health, safety and welfare."

Upon motion of Director Blair and seconded by Director Vierheilig, the Board agreed to accept the Memorandum of Agreement with the changes as amended. There was no further discussion. Vote 5-0 with Director Wirsing abstaining.

The Board took a break at 10:45 a.m. and returned at 10:50 a.m.

- D-2) REQUEST FOR SERVICE – TRACT 2561 (BURNSED)  
Request for water & sewer service for an 8-parcel development on So. Frontage Rd.

A request was received for water and sewer service for an 8-parcel development on South Frontage Rd. The Board had some questions concerning the project.

Upon motion of Director Blair and seconded by Director Vierheilig, the Board agreed to was table this request until more information could be presented by the developer and a representative could be present at the meeting.

There was no public comment. Vote 5-0

- D-3) REQUEST FOR SERVICE – TRACT 2398 – (NEWDOLL)  
Request for water and sewer service for an 8-lot development between Tejas & Martha

A request was received from Mr. Newdoll to issue an Intent-to-Serve letter for Tract 2398. An Intent-to-Serve letter was issued July 7, 2000. There was no public comment. After some Board Discussion it was agreed to remove items 3 & 5 from the conditions.

Upon motion of Director Blair and seconded by Director Winn, the Board approved the issuance of an Intent-to-Serve letter for Tract 2398 with the conditions as outlined in the Board letter excluding items 3 & 5. Vote 4-1 with Director Wirsing voting no.

- D-4) OLDE TOWNE WATER AND SEWER SERVICE FUNDING AGREEMENT  
Review/approve an agreement between NCSD & SLO County for funding service connections

The Board discussed an agreement between NCSD and SLO County for funding service connections. The Board agreed that the County was operating in good faith.

Upon motion of Director Trotter and seconded by Director Blair, the Board agreed to approve the agreement in concept but not accept in full until blanks are filled in.

There was no public comment. Vote 3-2 with Directors Wirsing and Vierheilig voting no.

D-5) AGREEMENT FOR THE PURCHASE, INSTALLATION AND MAINTENANCE OF VINTAGE STREET LIGHTS FOR OLDE TOWNE

Review draft agreement between SLO County, Olde Towne Assoc. and NCSD

The Board discussed the draft agreement for the purchase, installation and maintenance of vintage street lights for Olde Towne Nipomo. There was no public comment. Upon motion of Director Vierheilig and seconded by Director Blair, the Board approved in concept only, the agreement with San Luis Obispo County Public Works Department. Vote 5-0

E. OTHER BUSINESS

E-1) INCORPORATION STUDY UPDATE AND BOUNDARY REVIEW BY THE DAVIS COMPANY

Review proposed city boundaries for city incorporation feasibility study

The Board heard this item before D-1

E-2) AMENDMENT TO BOARD OF DIRECTORS BY-LAWS

Resolution changing Board of Directors meeting to the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of the month

The Board discussed changing the meetings from the first and third Wednesday to the second and fourth. There was no public comment.

Upon motion of Director Trotter and seconded by Director Vierheilig, the Board unanimously approved Resolution 2003-866 amending the Board by-laws. Vote 5-0

**RESOLUTION NO. 2003-866**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT**

**AMENDING BOARD BY-LAWS**

E-3) DISTRICT INSTALLED SEWER LINE REIMBURSEMENT

Review reimbursement cost for sewer line in the Story Rd. & Meredith extension

The Board discussed the reimbursement costs for District installed sewer lines. There was no public comment. This was an information item only.

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 June 11, 2003, Regular Board meeting

F-3) ACCEPTANCE OF WATER and SEWER IMPROVEMENTS—TRACT 2432 (GEIHS) (REC. APPROVAL)

Resolution accepting water and sewer improvements for an 8-lot development on Butterfly Lane

Items F-1 and F-2 were removed to be considered separately.

Upon motion of Director Blair and seconded by Director Trotter, the Board unanimously approved Item F-3, including Resolution 2003-867 accepting the water and sewer improvements for Tract 2432. There was no public comment on this item. Vote 5-0

**RESOLUTION NO. 2003-867**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE WATER AND SEWER IMPROVEMENTS**

**FOR TRACT 2432 NIPOMO HOMES, A GENERAL PARTNERSHIP (GEIHS)**

F-1) Director Wirsing asked about Warrant # 8239. [It was explained that this was for fees for the maintenance crew to attend a seminar.] Upon motion of Director Blair and seconded by Director Wirsing, the Board approved Item F-1 (Warrants) There was no public comment. Vote 5-0

**G. COMMITTEE REPORTS**

- F-2) President Winn asked that in Item D-4 to include in the motion to approve payment of the review of the District's SOI EIR update that Area 7 should be extended southerly to the edge of the bluff between Area 6 of Woodlands and Area 5 (Cal Cities area). Upon motion of Director Vierheilg and seconded by Director Wirsing, the Board approved Item F-2 (Minutes) as amended.

**H. MANAGER'S REPORT**

Doug Jones, District General Manager, reported on the AWWA Conference in LA.

The School committee will meet this Friday.

The Annexation Committee (Directors Wirsing & Winn) have prepared a draft questionnaire about incorporation and asks for comments from the Board.

**I. DIRECTORS COMMENTS**

Director Trotter and Wirsing had no further comments.

Director Vierheilg will not be at next meeting.

Director Blair reported on the AWWA Conference and the Long Beach tour of the de-sal plant.

Director Winn had no further comments.

Jon Seitz, District Legal Counsel, announced the need to go into Closed to discuss the items below. There was no public comment on the items on the Closed Session agenda.

**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

D. PUBLIC EMPLOYEE ANNUAL EVALUATION - GENERAL MANAGER GC \$54956.7

E. PUBLIC EMPLOYEE ANNUAL EVALUATION - LEGAL COUNSEL GC \$54956.7

The Board returned to Open Session and had not reportable action.

**ADJOURN**

President Winn adjourned the meeting at 1:15 p.m.

**The regular meeting of July 2, 2003 has been canceled.  
The meeting has been rescheduled to Thursday, July 10, 2003.**