

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

JULY 23, 2003

REGULAR MEETING

8:00 A.M.

AND

A SPECIAL MEETING OF

BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION

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

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson. Consistent with the Americans with Disabilities Act, NCSD Board agendas and other writings will be made available to disabled persons in an appropriate alternate format. (If assistance is needed, please contact the District office at least one day before the meeting.)

A. CALL TO ORDER AND FLAG SALUTE

President Winn called the meeting to order at 8:02 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all Board members were present.

CLOSED SESSION

Jon Seitz, District Legal Counsel, announced the need to go into Closed Session to discuss the following. There was no public comment on the Closed Session item. The Board adjourned to the conference room.

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

A. SMWVCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES

The Board came back into Open Session at 9:30. Jon Seitz, District Legal Counsel, reported that the Board heard an update on the above case and had no reportable action.

OPEN SESSION

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.

There was no public comment.

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

D-1) REVIEW WATER CODE 350/WATER SHORTAGES

Review report from District Legal Counsel and give direction to staff

Jon Seitz, District Legal Counsel, expounded upon the report presented to the Board regarding Water Code § 350 as it relates to (a) the District's ability to provide existing and future District customer with water and (b) Alternatives if a water shortage is determined to exist. He stated that he did not include the Blacklake Development as that area is at build-out.

The following members of the public spoke:

Ed Eby, NCSD Customer – stated that he objected to the Board hearing this report as it was not available to the public before today and the Board should not take action today.

Eugene Melschau, Nipomo resident – stated that he is a farmer of avocados and a Mutual Water Co member but today he is speaking as a farmer on the east side of Nipomo. He stated that he is concerned with the pumping for the wells on the east side because the farmers have had real challenges for years with fluctuating well levels.

Director Blair stated he would like to know what supplemental water will cost customers.

Homer Fox, NCSD resident – stated that when Mike Hermreck pumped his well hard, he had heard of three wells that in his area dried up.

Bill Morrow, NCSD resident – stated that he was confused by this issue and would like to see an effective, simplified graphics report. He stated that the impact of many more homes here will impact the feasibility study and the water issue.

Guy Murray, NCSD resident – urged the Board to use caution if planning to declare a water shortage.

This was an information item and not for Board action. The Board members discussed the report from Mr. Seitz.

Director Wirsing asked if conservation measures are punishing the ratepayers. [Mr. Seitz replied that tiered rates can be viewed as punitive or responsible.]

Director Trotter stated that this would be a volatile issue if water rates are tiered.

Director Blair stated that growth happens and can support a tiered rate structure but he cannot support a moratorium on water.

Director Vierheilig stated this is a good report but needs some work. Water conservation should be everyone's concern. He could support Mr. Seitz's suggestion of a growth percentage.

Director Wirsing stated that she is against a moratorium but would like to have some restrictions such as the County's 2.3% growth cap.

Director Trotter stated that he too is against moratorium and the answer to some of these water problems is supplemental water.

Director Winn had the following suggestions for a refined report:

- a) Urged Mr. Seitz to use the word connection rather than customer in his report.
- b) Check per parcel potential usage
- c) Difference between production and consumption is about 4.5% [Industry standard is 3% {Mr. Trotter}] {Normal standard is around 10%}
- d) Separate parks and schools and possibly use a different tiered rate
- e) East side pumping – need to check possible impacts on agriculture and possibly wait to put Hermreck well on line.
- f) Recommends support of #1 suggestion but no retrofits
- g) Would like to see a water plan created inexpensively
- h) Education to schools possibly not productive
- i) Would like report on Urban Water Management Plan by September 10th meeting

The Board took a short break at 11:05 a.m.

D-2) NIPOMO HIGH SCHOOL WATER SERVICE

Resolution to approve a time extension to complete a new service agreement

The Board discussed the resolution to extend the termination date of the Agreement from August 14, 2003 to October 17, 2003, in order to complete a new service agreement to provide water and sewer service to the new Nipomo High School.

Diana Larson, Deputy Superintendent of Lucia Mar Unified School District thanked the Board for its cooperation.

The following members of the public spoke:

Dick Mobraaten, NCSD resident – urged the Board to grant the extension.

Donna Mills, Board President of the LMUSD – stated that the number of Intent-to-Serve letters granted by the District impacts the school.

D-2) NIPOMO HIGH SCHOOL WATER SERVICE {CONTINUED}

Resolution to approve a time extension to complete a new service agreement

Upon motion of Director Wirsing and seconded by Director Blair, the Board unanimously approved Resolution 2003-872 extending termination date of agreement between NCSD and LUMSD. There was no public comment on this motion. Vote 5-0

**RESOLUTION 2003-872
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
EXTENDING TERMINATION DATE OF AGREEMENT**

D-3) REQUEST FOR ANNEXATION – ANNEX NO. 23 (NESTER)

Request to annex 18½ acres, an 18-lot development on Pomeroy Rd. at Waypoint

The Board discussed the request for annexation from Greg Nester for 18½ acres on Pomeroy Road at Waypoint.

Director Wirsing asked if this was the correct form approved by the Board.

The following member of the public spoke:

Greg Nester, developer of project – stated that he did not understand the process. He thought the Board approved the annexation in November and was waiting for the new annexation policy before an annexation agreement was drafted. He told the Board that this was a clustered development. Upon motion of Director Vierheilg and seconded by Director Blair, the Board agreed to have an annexation agreement prepared. There was no public comment on this motion. Vote 4-1 with Director Wirsing voting no.

D-4) REQUEST FOR SERVICE – TRACT 2561 (BURNSSED)

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

The Board reviewed the request for service. Jon Seitz, District Legal Counsel, suggested added language to the Intent-to-Serve letter.

Tim Crawford Central Coast Engineering, representative for the developer, Dr. Burnsed – requested issuance of an Intent-to-Serve letter.

Upon motion of Director Blair and seconded by Director Vierheilg, the Board approved the Intent-to-Serve letter for Tract 2561 with the conditions as outlined on the Board letter with as well as the following:

6. Other future conditions may be established by the Board of Directors prior to issuance of a final Will-Serve letter.

There was no public comment on this motion. Vote 5-0 with Director Wirsing abstaining.

E. OTHER BUSINESS

E-1) AGREEMENT TO PURCHASE VINTAGE STREET LIGHTING

Review agreement to purchase street lighting with HCH grant funds

Staff recommends continuing this item until the County Council approves expenditure for the streetlights. Upon motion of Director Blair, seconded by Director Vierheilg, the Board agreed to continue the item. There was no public comment on this motion. Vote 5-0.

E-2) TEFPT STREET WATER AND SEWER PROJECT

Approve Change Order No. 1 – Installation of water and sewer services

The Board discussed the proposed Change Order for installation of water and sewer services. Upon motion of Director Blair and seconded by Director Wirsing, the Board approved the change order in the amount of \$95,031.00. There was no public comment on this motion. Vote 5-0

E-3) AMENDING TRUST AGREEMENT

Resolution approving amendment to Trust Agreement to allow bond receipts to be invested in LAIF

The Board discussed the amendment to the Trust Agreement to allow bond receipts to be invested in LAIF. Upon motion of Director Blair and seconded by Director Trotter, the Board approved Resolution 2003-873. There was no public comment on this motion. Vote 5-0.

RESOLUTION NO. 2003-873

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT APPROVING A FIRST AMENDMENT TO THE TRUST AGREEMENT AND MAKING CERTAIN OTHER DETERMINATIONS IN CONNECTION THEREWITH

ADJOURN TO THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION

President Winn adjourned the regular meeting of the Nipomo Community Services District to the Nipomo Community Services District Public Facilities Corporation at 12:23 p.m.

ROLL CALL

At Roll Call, all Board members were present.

Public Comment on Agenda Items

The public has the right to comment on any item on the Special Meeting Agenda.

Comments are limited to 3 minutes or otherwise at the discretion of the Chair.

There was no public comment.

A. AMENDING TRUST AGREEMENT Resolution 2003-04

Resolution approving amendment to Trust Agreement to allow bond receipts to be invested in LAIF

Upon motion of Director Blair and seconded by Director Vierheilg, the Board unanimously approved Resolution 2004-03 of the Public Facilities Corporation approving a first amendment to the trust agreement. There was no public comment on this motion. Vote 5-0

RESOLUTION NO. 2003-04

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION APPROVING A FIRST AMENDMENT TO THE TRUST AGREEMENT AND MAKING CERTAIN OTHER DETERMINATIONS IN CONNECTION THEREWITH

ADJOURN TO NIPOMO COMMUNITY SERVICES DISTRICT - REGULAR MEETING

President Winn adjourned the regular meeting of the Nipomo Community Services District Public Facilities Corporation to the Nipomo Community Services District at 12:24 p.m.

President Winn called the regular meeting of NCSD back to order at 12:24 p.m.

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 July 10, 2003, Regular Board meeting

F-3) DISTRICT INVESTMENT POLICY – QUARTERLY REPORT [RECEIVE AND FILE]
Quarterly investments report as of June 30, 2003

F-4) ACCEPTANCE OF WATER AND SEWER IMPROVEMENTS (STOKES) [REC. APPROVAL]
Resolution accepting water and sewer improvements for CO 03-0026 on Day and Thompson

RESOLUTION NO. 2003-874

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING THE WATER AND SEWER IMPROVEMENTS FOR CO 03-0026 (STOKES)

F. CONSENT AGENDA {CONTINUED}

Director Wirsing asked about F-4 and was told that this project was complete.

Upon motion of Director Vierheilg and seconded by Director Blair, the Board unanimously approved the Consent Agenda. There was no public comment on this motion. Vote 5-0

G. MANAGER'S REPORT

Doug Jones, District General Manager, had no report to give.

H. COMMITTEE REPORTS

There were no Committee Reports.

I. DIRECTORS COMMENTS

Director Trotter read a statement into the record and will refine it to be included in the minutes. (attached)

Director Wirsing asked about the letter from Mr. Benham regarding landscaping for his project. [Mr. Jones explained that he asked Mr. Benham for a more detailed request.]

Director Vierheilg stated that many people have asked him about an automatic payment system. Someone from the Salmon Enhancement Program will be requesting funding of the Nipomo Creek Clean Up Day (Oct 4) which will be more extensive this year. He mentioned a meeting to be held Tuesday, July 29 at the Dunes Center discussing the future of water quality regulations in the Santa Maria Guadalupe. Julia Dyer will be speaking.

Director Blair stated that the County Board of Supervisors approved \$124,000.00 for a Summit Station study.

He also announced that he would be a member on the CSDA Board. He will take office in Sept.

Director Winn mentioned an article in a research brief regarding turnouts at meetings. He will pass on the information to the Incorporation Committee. He has extensive comments to submit. He stated that the last day to comment to LAFCo on the SOI IS July 31, 2003. He stated that at the LAFCo meeting, the Memorandum of Agreement, which our Board approved, is being characterized as a modified agreement. He stated that it is not a modified agreement. He asked LAFCo to assist us in drafting a proposal from the NCSD to the Board of Supervisors. Another meeting will be held next week to discuss the matter. The SLO County Watershed Program is working with the County Farm Bureau, the Salmon Enhancement and others and put together a steering group. He has attended the meetings to make sure Nipomo's interests are being involved. He will not support the Creek Cleanup this year. The Farm Bureau provides two 15-hour courses in ranchland water quality management and farmland water quality management. He would like some empirical data from staff as to where the water goes when it leaves our wastewater treatment plant.

Jon Seitz, District Legal Counsel, announced the need to go into Closed Session to discuss the following items. Mr. Seitz noted that there was no audience to comment on the Closed Session. The Board went into Closed Session at 12:42 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. LABOR NEGOTIATIONS/UNREPRESENTED EMPLOYEES

- GENERAL MANAGER POSITION CONFERENCE WITH DISTRICT'S NEGOTIATOR JON SEITZ GC§54957.6
- ADMINISTRATIVE ASSISTANT CONFERENCE WITH NEGOTIATOR DOUG JONES GC§54957.6

The Board came back into open session and had no reportable action.

ADJOURN

President Winn adjourned the meeting at 1:30 p.m.