

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

SEPTEMBER 24, 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**

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 9:05 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.

Jon Seitz, District Legal Counsel, announced that staff requests to add item C to the Closed Session agenda (Anticipated Litigation. Government Code 54954.2(B2) allowing the Board to add to the agenda when the need arises after the regular agenda has been posted. A faxed letter was received by Shipsey & Seitz in the afternoon of Tues, Sept. 23, 2003.

Upon motion of Director Vierheilig and seconded by Director Wirsing, the Board agreed to put an item on the Closed Session agenda. Vote 5-0

This item is now placed on the Closed Session as Item C.

The following members of the public spoke on the Closed Session items:

Jim Kinninger, NCAC Chair – (a) stated that he understands that the developer of Maria Vista is asked to make an addition of a sewer and water line and asked the Board to keep the trust earned in past issues. (b) He stated that NCAC discussed the proposed development of the Kaminaka property. He asked if the Board is willing to utilize the power of parks and recreation. There is a very good well on the property on the portion that is planned to be the playing fields. He asked if the Board consider all the possibilities.

Director Blair – stated that he felt that developers are not treated consistently depending on whether the developer offers something free to the community.

Erik Benham, principle in the Maria Vista Estates – asked if he could address the Board about the Closed Session because he had an appointment and could not stay until the end of the regular meeting. [President Winn said he could address the Board before the Closed Session.]

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

D-1) PUBLIC HEARING – ESTABLISHING BI-MONTHLY SEWER RATES FOR BLACKLAKE DIVISION
Adoption of an ordinance establishing sewer rates for Blacklake Division Ord. 2003-98

President Winn opened the meeting to a Public Hearing. There was no public comment concerning the adjustment of the sewer rates. Director Trotter stated that Bill Morrow, the representative for Blacklake, accepts the need to adjust the Blacklake sewer rates. He wanted to commend Lisa Bognuda for all her work involved in preparation of information. Upon motion of Director Trotter and seconded by Director Vierheilig, the Board unanimously approved Ordinance 2003-98 establishing sewer rates for the Blacklake Division. Vote 5-0

**ORDINANCE NO. 2003-98
AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING APPENDIX A TO CHAPTER 4.12 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH BI-MONTHLY RATES FOR SEWER SERVICE
WITHIN THE BLACKLAKE DIVISION**

- D-2) ANNEXATION AGREEMENT FOR ANNEXATION NO. 23 (NESTER)
Review/approve draft Annexation Agreement for an 18-lot development on Pomeroy at Waypoint

Director Vierheilig asked about agricultural use and who is responsible if ag use is changed. [Jon Seitz, District Legal Counsel, explained that the County would take over as open space with an ag easement.]

Director Wirsing asked about the monitoring of the well on this property. [Mr. Seitz explained that the property owner will be responsible for the monitoring.]

Director Blair stated that this is the last time he will vote for a cluster development.

Mr. Seitz explained that in order to have an ag easement, there must be 20 acres.

Director Blair asked about the taxes on this property.

Director Trotter stated that if the taxes were not paid, the property would revert to the County.

The following member of the public spoke:

Greg Nester, owner-developer of property – stated that the property tax is only \$98.00 so payment would not be an issue.

Director Wirsing read from 1999 document, a letter from Mr. Jones to Noel King, and other documents concerning overdrafting of water from growth. She read the following statement:

“From all this documentation from our governmental agencies that I have studied, it is my agreed conclusion that we are in an overdraft condition that could be harmful to the current ratepayers of our District. I cannot agree to commit a promise of water to any project that is outside the District boundary. I believe that there is not a sufficient overlying supply within the Nipomo hydrologic sub-area. For those projects that are entitled within our boundary I will be glad to consider them when this District has a contract for a supplemental water supply in hand that is a guaranteed plentiful source that is affordable and clean. I do not believe that a community should be forced into restrictive water conservation program while the District continues to actively commit to more water consumption under these knowing adverse conditions. At this time I believe we do not have any overlying, sufficient source of water.”

Upon motion of Director Vierheilig and seconded by President Winn, the Board approved the Annexation Agreement for Annexation No. 23 as modified with the condition of combining the two parcels to create open space. Director Blair stated that he is frustrated that all the hoops the developer has jump through raises the cost of the houses.

Director Wirsing stated that she feels that these cluster developments will cause problems in the future.

Vote 3-2 with Directors Wirsing and Trotter voting no and Director Blair abstaining.

- D-3) STATE JOBS HOUSING BALANCE INCENTIVE GRANT PROGRAM (GRANT FUNDS) (OLDE TOWNE)
Review/approve Grant Funding agreement with SLO County to fund service connections

The Board discussed the grant funding agreement with SLO County to fund service connections in Olde Towne Nipomo. President Winn suggested that the agreement could be referred to as the Olde Towne Design Project rather than the Tefft Street Project because it is not limited to Tefft Street.

There was no public comment. Upon motion of Director Trotter and seconded by Director Vierheilig, the Board approved the agreement as written. Vote 5-0

**AGREEMENT REGARDING USE OF STATE JOBS HOUSING BALANCE
INCENTIVE GRANT PROGRAM FOR TEFFT STREET IMPROVEMENTS
IN THE NIPOMO OLDE TOWNE AREA**

E. OTHER BUSINESS

- E-1) NIPOMO WEST SIDE CLEAN UP WEEK
Review funding for Nipomo Clean-Up Week

The Board discussed the clean up week planned for November 15-22.

The following members of the public spoke:

Jim Kinninger, NCAC Chair - He stated that the Advisory Council was involved in this project in the past. There are problems without the vouchers. The program will be augmented by funds from other sources. He stated that the Council would appreciate that the Board contribute \$20,000 toward the project.

Upon motion of Director Trotter and seconded by Director Blair, the Board authorized \$20,000 expenditure for the voucher program of the Nipomo West Side Clean Up Week.

Vote 5-0

- E-2) NIPOMO CREEK CLEAN UP WEEK (OCTOBER 20-25)
Land Conservancy request for financial assistance to clean creeks

Director Vierheilg recused himself from the Board because of his membership in the Land Conservancy and left the room.

The Board discussed the Nipomo Creek Clean Up Week planned for October 20-25.

There was no public comment on this motion.

Upon motion of Director Wirsing and seconded by President Winn, the Board approved \$2,000 from the Solid Waste Fund for expenditures for the Creek Clean Up Week with accountability given to be sure that all the money spent is a direct benefit to the District inside the District and the vendors will be instructed to bill the District directly. Vote 4-0 with Director Blair abstaining.

President Winn called a 5 minute break.

The meeting came back to order after the break.

- E-3) NCSD BUILDING USE POLICY
Review existing Board room use policy

President Winn asked for a change in the Board Room Use Policy in Item C. He asked that the room shall be designated as the NCSD Board Room and in #8 to add the words reservation fee. There was no public comment on this motion.

Upon motion of Director Blair and seconded by Director Wirsing, the Board approved having staff make the changes discussed in the Board Room Use Policy. Vote 5-0

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 September 10, 2003, Regular Board meeting

Items F-3 & 4 were pulled from the Consent Agenda for further discussion.

Upon motion of Director Vierheilg and seconded by Director Blair, the Board unanimously approved Items F-1 and F-2 of the Consent Agenda as amended in Item H. (Add Director Winn's name to the Housing Element Committee). Vote 5-0

- F-3) WATER/SEWER AGREEMENT WITH LUCIA MAR UNIFIED SCHOOL DISTRICT (RECOMMEND APPROVAL)
Agreement for District to provide services to the Nipomo High School

The Board discussed the terminology used in the agreement.

**AGREEMENT FOR WATER AND SEWER SERVICE BETWEEN
THE NIPOMO COMMUNITY SERVICES DISTRICT
AND THE LUCIA MAR UNIFIED SCHOOL DISTRICT**

- F-4) APPROVE ANNEXATION NO. 19 –NIPOMO HIGH SCHOOL - LUCIA MAR USD (RECOMMEND APPROVAL)
Resolution acknowledging that conditions of Annex. No. 19 have been met

Items F-3 & F-4 were pulled for discussion. Director Trotter wanted clarification of the number of units stated in 14.1 A. [Mr. Jones stated that was the correct number.]

The following member of the public spoke:

Mike Sears, Superintendent of LMUSD – stated his appreciation to the Board and staff who worked diligently on the agreement and the annexation.

Upon motion of Director Blair and seconded by Director Vierheilig, the Board approved Items F-3 & F-4. Vote 5-0

**RESOLUTION NO. 2003-879
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT ACKNOWLEDGING
THAT CONDITIONS OF ANNEXATION FOR ANNEXATION NO. 19
(LUCIA MAR UNIFIED SCHOOL DISTRICT) HAVE BEEN SATISFIED**

President Winn moved the Public Comment Period for the Closed Session to this time.

The following members of the public spoke concerning the Closed Session:

Erik Benham, principle of Maria Vista Estates – described to the Board his frustrations concerning the signing of the plans for Tracts 1802 and 1856. He showed the Board the red marks made by staff on the plans that requires him to make changes.

Mike Bender, partner of Maria Vista Estates – agreed with Mr. Benham in the frustration in trying to get the project completed.

G. MANAGER'S REPORT

The Santa Maria groundwater litigation trial begins in 2 weeks.

Doug Jones, District General Manager, reported on the CSDA Annual Conference attended by Director Trotter, Director Blair and him at Lake Tahoe.

H. COMMITTEE REPORTS

Directors Blair and Winn met concerning the SLO County Housing Element.

I. DIRECTORS COMMENTS

Director Blair – stated that he is now a CSDA Board member as a Director serving 9 counties.

Director Vierheilig – stated that the CSDA flyer contains information concerning raising fees as a way for the State to get around revenue.

Director Wirsing – suggested forming a committee to see what the County is doing.

Director Trotter – stated that fees do not increase the cost of housing; the market does.

President Winn –

1. Stated that he would like to have a trip to Templeton arranged as soon as possible to view TCSD's method of handling parks and recreation.
2. Encouraged staff to continue with the contract for Santa Maria water
3. Directors are invited to man a booth to be available for questions at the Octoberfest. Saturday, October 11th.
4. Talked about road fees being increased over 500% because growth is happening faster than the infrastructure.
5. CSDA for County is having a meeting Mon. Sept. 29 at Jon Seitz office talking about the agenda for the quarter meeting in the spring.
6. Asked to agendize a special meeting (study session) to discuss future items that lie ahead of NCSD. He would like to brainstorm possible projects.

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 LITIGATION

The Board came out of Closed Session and reported the following:

- A. There was an update on the SMVWCD vs. NCSD groundwater litigation. The Board took no reportable action.
- B. The Board did not discuss this item.
- C. Maria Vista vs. NCSD
The Board reviewed the letter from Trincon, Inc. threatening litigation. The Board gave instruction to legal counsel to attempt to settle the matter.
The Board came out of Closed Session and had no reportable action.

ADJOURN

President Winn adjourned the meeting at 1:10 p.m.

The next regular Board meeting will be October 8, 2003.