

# NIPOMO COMMUNITY SERVICES DISTRICT

## MINUTES

FEBRUARY 11, 2004

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**  
LISA BOGNUDA, **ASSISTANT ADMINISTRATOR**  
DONNA JOHNSON, **BOARD SECRETARY**  
JON SEITZ, **GENERAL COUNSEL**

The Nipomo Community Services District's mission is to provide the citizens of the District with quality, innovative, and cost-effective services through responsive and responsible local government to meet the changing needs of the community.

**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 9:00 a.m. and led the flag salute.

#### B. ROLL CALL

At Roll Call, the following members were present:

Directors Vierheilig, Blair, Wirsing and Winn. Director Trotter was absent.

#### 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:

Lt. Martin Basti, SLO County Sheriff's Dept. – gave a report on several crimes that have been abated. (forgery in Los Osos, robbery at Los Berros Mkt., assault in Nipomo)

A grant has provided firearm locks. They will be available at the sheriff's station.

Larry Vierheilig, NCSD resident – announced the Five Cities Orchid Show March 6-7 at the South County Regional Center in Arroyo Grande.

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

##### D-1) SUMMIT STATION DRAFT ENVIRONMENTAL IMPACT REPORT

Review of Land Use Ordinance Amendment EIR for Summit Station area

The Board reviewed the Land Use Ordinance Draft EIR for the Summit Station area.

Director Wirsing asked if the County is required to take the District's view of the groundwater basin. Jon Seitz, District Legal Counsel, said no.

The following members of the public spoke:

Jesse Hill, NCSD customer – stated that the latest assembly bill (AB1643) will allow granny units and suggested that the Board look at that.

Ed Eby, NCSD resident – stated that the District should not provide new water to non-existing customers at the expense of existing customers. He requested that the Board request the County to wait until the adjudication is complete.

Director Blair stated that each property owner paid for connection to the District and should receive the same consideration as other areas in the District. The residents want the same rights to develop their property as other places in the County.

Director Vierheilig stated that granny units would significantly affect groundwater. He stated that he does not agree with the Cleath report about the basin not being in overdraft.

Director Wirsing made a motion to table this issue until the judge hands down a decision.

The motion failed due to lack of a second.

D-1) SUMMIT STATION DRAFT ENVIRONMENTAL IMPACT REPORT (CONTINUED)

Jon Seitz, District Legal Counsel, stated that the District's UWMP provides that the District will not supply water delivery to increased density until one of two things occur:

1. Judge rules that the groundwater basin is not in overdraft so there is plenty of water to distribute or
2. That the District acquires supplemental water.

The proposed amendment to the General Plan contradicts District policy.

If the Board does not comment, the District's position will not be heard by the Planning Commission. The County's rule is not to approve a dry sub-division.

President Winn asked if our comments to the County could include a request to delay a decision until the adjudication ruling.

Director Blair made a motion that the District should comment on the report. The motion failed due to a lack of a second.

Director Wirsing made a motion for this Board and staff show the District's disagreement with the Cleath Report and that the water budget and the District would like to request a delay until the judge makes a determination or the County RMS Study is complete. Also added to motion is not to certify the EIR but to send it back to staff for further analysis pending the receipt of the judge's decision and the County's RMS analysis; that we believe Mr. Cleath's analysis is incorrect and Mr. Beeby is supported by Mr. Scalmanini's letter Both names need to be in there to support the District's position. Director Vierheilg seconded the motion. Vote 4-0 with Director Blair abstaining.

D-2) NIPOMO HILLS WELL TEST

Possible long term test of an existing well on S. Thompson Ave. at Rancho Road

The Board heard information concerning the possible test of a well on S. Thompson Avenue and possibly purchasing water from the well.

Spike Wheeler, Operations Manager for Nipomo Hills, LP – stated he thought no test had been performed on a well on the east side of Nipomo.

Ed Eby, NCSD resident – states that it does not seem right for the District ratepayers to pay for the pipeline out to the well-site and the pumps. The pipeline project would be subject to CEQA and an environmental finding on the impact of the pipeline as the District did for the Maria Vista pipeline.

Susie Hermreck, Nipomo resident, NCAC Chairwoman – stated that a hydrology test should be made before a well test at this site. Speaking as a representative for agriculture, she stated that the wells on the east side are at low levels. Please consider pumping all the adjoining wells in the area concurrently with this well and monitor with a certified hydrologist.

Jesse Hill, NCSD customer – stated that Nipomo Hills, LP would be an appropriator. He suggested that the District check with Mr. Markman.

Burt Fugate, Nipomo resident – stated that he opposes the well test. He gave the Board copies regarding testing of his wells through several years. Well levels on his property and water quality fluctuate depending on rainfall, pumping, etc. He stated that the proposed well pumping would deplete the surrounding water.

Donna Melschau, Nipomo resident – opposes the use of Nipomo Valley water for houses meant to be used for farming.

President Winn stated that the well on nearby property was pumped for several years before it went almost dry.

D-2) NIPOMO HILLS WELL TEST (continued)

Director Blair opposes the well test because of the unreliability of water in the area.

Director Vierheilig opposes the use of water on the East side of Nipomo and the proposed well test.

Director Wirsing opposes the well test. The Urban Water Management Plan states that the water on the East side is unreliable. The project could wait for supplemental water.

President Winn reviewed a printed statement handed out to the Board (attached to Minutes).

Upon motion by Director Wirsing and seconded by Director Blair the Board unanimously agreed not to proceed in the testing of the Nipomo Hills, LP well. Vote 4-0

President Winn called for a short break at 10:30 a.m.

D-3) REQUEST FOR SERVICE - CO 02-0021 (FLYNN)

Request to renew an Intent-to-Serve letter for water & sewer service for a 16-unit apt at 555 Orchard

The Board discussed the request for a renewal of an Intent-to-Serve letter.

The following member of the public spoke:

Dick Mobraaten, NCSD resident – stated that he was on the Board when this project was granted the original Intent-to-Serve letter. He remembered that parking seemed to be an issue.

Upon motion by Director Vierheilig and seconded by Director Wirsing, the Board unanimously agreed to table this request until the application was complete and the applicant had a representative present at the meeting. Vote 4-0

D-4) SLO COUNTY PARK EASEMENT

Review and approve water line easement through Nipomo Park

Jon Seitz, District Legal Counsel, reviewed the agreements.

There was no public comment.

Upon motion by Director Blair and seconded by Director Vierheilig, the Board approved the R-O-W and easement agreements and authorized the general manager to execute the documents. Vote 4-0

D-5) WATER CONSERVATION MEASURES

Implementing water conservation measures

The Board discussed the conservation measures listed in the Urban Water Management Plan, Appendix C.

President Winn stated that this conflates three issues.

1. Ordinance
2. Conservation measures #4 could be looked at now
3. Negotiations with Santa Maria

There was no public comment.

Upon motion by Director Vierheilig and seconded by Director Winn, the Board agreed to instruct legal counsel to draft language for a water conservation ordinance embodying the principles in the Urban Water Management Plan (5.1). Vote 4-0

D-5) WATER CONSERVATION MEASURES (CONTINUED)

Upon motion by Director Vierheilig and seconded by Director Wirsing, the Board unanimously agreed to direct staff to review the conservation measures with an explanation of each. Vote 4-0

Director Wirsing would like more information on the water rate structure possibilities depending on water conservation and supplemental water, etc. Perhaps an algorithm could be developed using different scenarios.

E. OTHER BUSINESS

E-1) TELEVISIONING BOARD MEETINGS

Review status of televising Board meetings

The Board discussed the possibility of televising District Board meetings. Director Wirsing will be on an ad hoc committee to get more information.

E-2) REVIEW BOARD OF DIRECTORS BY-LAWS

Annual review of Board By-Laws

The Board discussed the Directors By-Laws. Director Vierheilig pointed out a typo on Section 4.2. It should read "Section 4.3 below". Also, he suggested removing the word "only" in the same section. President Winn suggested additional wording in Section 4 regarding public comments. Director Wirsing would like to see some rationale for voting added to the preparation of the minutes. Upon motion by Director Vierheilig and seconded by Director Wirsing, the Board agreed to bring this item back with red lines showing suggested changes and when Director Trotter would be present for discussion. Vote 4-0

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 January 28, 2004, Regular Board meeting

F-3) ACCEPTANCE OF WATER IMPROVEMENTS – TRACT 2182 (DEBLAUW) [RECOMMEND APPROVAL]

Resolution accepting water improvements for Tract 2182

F-4) ACCEPTANCE OF WATER & SEWER IMPROVEMENTS–TR 2261 (NEWDOLL) [RECOMMEND APPROVAL]

Resolution accepting water and sewer improvements for Tract 2261

Director Wirsing asked if more Board comments in Item C could be added to the Minutes for January 28, 2004. She also questioned the wording on Item F. The issue will be discussed when the Board By-Laws are reviewed at the next meeting. Upon motion by Director Blair and seconded by Director Vierheilig, the Board unanimously approved the Consent Agenda. Vote 4-0

**RESOLUTION NO. 2004-889**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE WATER IMPROVEMENTS  
FOR THE FOR TRACT 2182 (DeBLAUW BUILDERS)**

**RESOLUTION NO. 2004-890**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE WATER AND SEWER IMPROVEMENTS  
FOR THE FOR TRACT 2261 (NEWDOLL)**

**G. MANAGER'S REPORT**

Jon Seitz, District Legal Counsel, stated that Dana Lilley reported the grant funds for the reimbursement for the Tefft Street project are on the way.

**H. COMMITTEE REPORTS**

There were no committee reports.

**I. DIRECTORS COMMENTS**

Director Vierheilig announced a workshop for County-wide Parks & Rec element to be held Wed. Feb. 25, 2004, 7:00 p.m. NCSD Board room.

He also stated that he would like to have a community bulletin Board in the foyer.

He stated that the State budget cut back the California Conservation Corps 64%, closing 6 of 11 resident centers. He is requesting to put item on agenda to write a letter to the State in support of other cost cutting.

President Winn stated that WRAC met last Wednesday. He was elected Vice President.

The County approved the resource management system which talks about water being at a Level II severity. They have hired a consultant for \$126,000 to do an analysis.

He also stated that he understood that the fence around the Tefft Street Lift Station needed to be placed there for safety. Staff is pursuing planting something or putting up slats to cover the chain link fence.

He also stated that last Monday was the deadline for the comments on the Sphere of Influence Update. It will be interesting to see the results of the comments received.

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

**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. ANTICIPATED LITIGATION, ONE CASE GC §54958.9

The Board came back into Open Session and had no reportable action.

**ADJOURN**

President Winn adjourned the meeting at 12:49 a.m.

**The next regular Board meeting will be February 25, 2004.**