

NIPOMO COMMUNITY SERVICES DISTRICT

MAY 26, 2004

MINUTES

REGULAR MEETING 8:00 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, NCS D 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 two days before the meeting.)*

CLOSED SESSION 8:00 a.m.

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9
SMVWCD VS NCS D SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES

A. CALL TO ORDER AND FLAG SALUTE

President Winn called the meeting to order at 8:00 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, the following members were present. Directors Vierheilig, Wirsing and Winn. The Board retired to the Conference Room for the Closed Session.

Director Blair arrived at 8:25 a.m.

Jon Seitz, District Legal Counsel, announced the need to go into Closed Session. The Board adjourned to the Conference Room.

Approximately 9:30, Jon Seitz, District Legal Counsel, announced the Board had been in Closed Session and reported that James Markman, District Special Water Counsel discussed Phase III of the groundwater litigation. There was no reportable action.

OPEN SESSION -- Estimated time 9:30 a.m.

President Winn called the Open Session portion of the meeting to order at 9:35 a.m. and led the flag salute.

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:

Jesse Hill, Outside District – stated that he is working for the settlement of the litigation. NCAC asked about annexing Holloway's Christmas tree farm.

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

D-1) SOLID WASTE INTERIM RATE INCREASE

Interim year proposed rate adjustments for solid waste collection

The Board discussed the proposed rate adjustments. Director Wirsing asked Mr. Tom Martin, General Manager, South County Sanitary Service Inc., what would happen if the Board did not approve the rate increases and asked how the "mandatory with tax lien" would be handled.

Director Vierheilig asked Mr. Martin about some line items and Mr. Martin explained about insurance, vehicle costs etc.

Director Blair asked about mandatory and how it is billed. Mr. Martin said it costs approx.\$6,500 to chase non-paying customers.

D-1) SOLID WASTE INTERIM RATE INCREASE (CONTINUED)

Director Wirsing asked about owner responsibility of bill and how bills are paid.

Director Trotter asked how long Cold Canyon has left.

Mr. Martin explained that there is approx. 8 years left and a process to expand for another 30 years is in the works.

Jon Seitz, District Legal Counsel, explained the process to put a lien on property.

Mr. Martin stated there would be 188 parcels added if mandatory trash service were implemented. When people take trash to the landfill, we are not meeting the AB 8939.

He also stated that there is recycling information on Pg. 552 of the phone book.

The following member of the public commented:

Jesse Hill, outside District – stated that he thinks the rate increase may be low and also favors mandatory trash collection.

Upon motion of Director Blair and seconded by Director Wirsing, the Board agreed to accept the rate increase of 4.61%, non-mandatory trash service and not to bring this matter back to the Board. Vote 3-2 with Directors Winn and Vierheilg voting no.

D-2) PROPOSED ORDINANCE RESTRICTING WATER SERVICES TO INCREASE LAND USE CHANGES
Review draft ordinance restricting District water services to increase land use density changes

Jon Seitz, District Legal Counsel, explained the draft ordinance restricting water services using Summit Station area as a hypothetical example. The Board discussed the scenario. The following member of the public spoke:

Jesse Hill, outside District – state that he agrees that the Board has tough decisions when the District does not have land use powers. There is the possibility of TDC coming. How to pick and choose density bonuses is a real challenge.

Ed Eby, District resident – asked about the intent of the water usage portion of the ordinance.

President Winn explained his understanding of the policy. If a project is approved, they come to NCSD for Intent-to-Serve letter before the project is approved, so we will get it earlier in the process and not later. Staff would have to know how to administer before it goes to the County form approval.

Mr. Seitz explained that everyone involved would be made aware of the meaning of this proposed ordinance.

Director Wirsing stated that supplemental water should be obtained before Will-Serve letters are issued.

Director Trotter suggested the District be careful in taking water from the east side.

A list of proposed changes concerning secondary dwellings was delivered to the Board. There was more discussion.

Director Blair made a motion to send the entire list above to staff to prepare the proposed ordinance. Director Vierheilg seconded the motion. Director Trotter stated that he is against all Will-Serve letters until supplemental water is in place. Vote 4-1 with Director Wirsing abstaining. Director Wirsing asked that it be made clear that this abstention did not mean yes or no (using the By-Laws current policy).

D-3) LANDSCAPE MAINTENANCE DISTRICT NO. 1
Review draft of engineering assessment report and set public hearing

The Board discussed the report. There was no public comment.

Director Vierheilg questioned the CPI figure.

Upon motion of Director Blair and seconded by Director Trotter, the Board unanimously approved Resolution 2004-898 and Resolution 2004-899. Vote 5-0

D-3) LANDSCAPE MAINTENANCE DISTRICT NO. 1 (CONTINUED)

RESOLUTION NO. 2004-898
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT GRANTING APPROVAL OF THE
ANNUAL ENGINEER'S LEVY REPORT FOR THE LANDSCAPE AND
MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2004/2005

RESOLUTION NO. 2004-899
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT DECLARING ITS INTENTION TO
LEVY ANNUAL ASSESSMENTS FOR THE LANDSCAPE AND
MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2004/2005

D-4) WORKERS' COMP – CONTRACT WITH SPECIAL DISTRICT WORKERS' COMPENSATION ASSOCIATION (SDWCA)

Review and consider resolution to contract with SDWCA Workers' Comp Program

The Board discussed the possible change to SDWCA Workers' Comp insurance program. There was no public comment.

Upon motion of Director Blair and seconded by Director Vierheilg the Board unanimously approved Resolution 2004-900 and 2004-901. Vote 5-0

RESOLUTION NO 2004-900
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT APPROVING THE FORM OF AND
AUTHORIZING THE EXECUTION OF A FIFTH AMENDED JOINT POWERS
AGREEMENT AND AUTHORIZING PARTICIPATION IN THE SPECIAL
DISTRICT RISK MANAGEMENT WORKERS' COMPENSATION PROGRAM

RESOLUTION NO. 2004-901
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
AUTHORIZING APPLICATION
TO THE DIRECTOR OF INDUSTRIAL RELATIONS, STATE OF CALIFORNIA
FOR A CERTIFICATE OF CONSENT TO SELF INSURE
WORKERS' COMPENSATION LIABILITIES

E. OTHER BUSINESS

E-1) REQUEST FOR BIDS TO CONSTRUCT WATER LINE

Request bids to construct water lines across Nipomo Park and in Camino Caballo

The Board discussed requesting bids to construct water lines across Nipomo Park and in Camino Caballo. Director Vierheilg asked about the proposed position in the right-of-way. There was no public comment. Upon motion of Director Trotter and seconded by Director Wirsing, the Board unanimously agreed to request bids as described above. Vote 5-0

E-2) REVIEW HERMRECK WELL BIDS

Review bids and award contract to re-establish the Hermreck Well

The Board discussed the only bid that was received from a contractor. There was no public comment.

Upon motion of Director Blair and seconded by Director Vierheilg, the Board agreed to award the bid to Maggiora Bros. Drilling, Inc. in the amount of \$203,710.00 and approve Resolution 2004-902. Vote 4-1 with Director Wirsing voting no.

RESOLUTION 2004-902
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AWARDING A CONTRACT TO MAGGIORA BROS. DRILLING, INC.
FOR THE RE-ESTABLISHMENT OF THE HERMRECK WELL

- E-3) BOARD OF DIRECTORS BY-LAWS
Review proposed changes in the Board By-Laws

The Board discussed the proposed changes in the By-Laws. There was no public comment on this portion of the By-Laws. Upon motion of Director Vierheilg and seconded by Director Trotter, the Board approved the changes proposed in the red-lined version of the By-Laws except 2.9. Vote 5-0

The Board then discussed 2.9 concerning an abstention vote.

The following member of the public spoke:

Ed Eby, District resident – suggested that the Board make it simple. He also suggested that an abstention vote be counted as an absent Director.

Director Blair made a motion to accept a) Abstention is an affirmative vote. President Winn seconded the motion for the purpose of discussion. Vote 2-3 with Directors Wirsing, Trotter and Vierheilg voting no.

Director Blair made a motion to accept b) Abstention is a no vote. President Winn seconded the motion for the purpose of discussion. Vote 5-0

Upon motion of Director Vierheilg and seconded by Director Wirsing, the Board approved Resolution 2004-903. Vote 4-1 with Director Blair abstaining.

**RESOLUTION NO. 2004-903
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING AMENDED BY-LAWS (2004 UPDATE)**

- 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 May 12, 2004, Regular Board meeting

Minutes of May 18, 2004, Special Board meeting - Study Session

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

G. **MANAGER'S REPORT**

The General Manager had no report.

H. **COMMITTEE REPORTS**

The web site meeting was held. A conceptual draft is available.

I. **DIRECTORS COMMENTS**

Directors Vierheilg and Trotter (Finance Committee) will be meeting with the auditor June 14. Jon Seitz, District Legal Counsel, reported about the LAFCO decision about the 15% water reduction.

Director Blair would like to see policy whereas a retrofit is required when a house is sold. He attended the Legislative Days in Sacramento and reported about an initiative

Director Vierheilg asked about an area planning information request to Supervisor Achadjian. Director Wirsing would like to have a water education committee.

President Winn reported that WRAC meets next month Wed. June 2

July and Sept 11 Save the Mesa forum

LAFCo decision is surprising.

J. DIRECTORS COMMENTS (continued)

It is necessary to get supplemental "on tap"
RRM Design firm appealed to LAFCo to extend Area 3 but it had no support from LAFCo.
We can choose an engineer to implement the Urban Water Management Plan.
Next month, June 26th, there will be a Patriotic Street Fair.
Director Trotter asked about the status of the Lyn Road annexation.

There was no need to have another Closed Session.

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9
SMVWCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.

ADJOURN

President Winn adjourned the meeting at 12:30 p.m.

Pending - The next regular Board meeting will be June 9, 2004.