

NIPOMO COMMUNITY SERVICES DISTRICT

JULY 28, 2004

9:00 A.M

MINUTES

REGULAR MEETING

BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT

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 two days before the meeting.)*

A. CALL TO ORDER AND FLAG SALUTE

President Winn called the meeting to order at 9:03 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, the following Board members were present: Directors Vierheilig, Blair and Winn. The following Board members were absent: Directors Wirsing and Trotter.

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.

Greg Hoff, outside District resident, Director of Backyard Burning now known as "Rural Fire Hazard Removal" asked the Board to be on the next agenda.

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

D-1) REVIEW AD HOC COMMITTEE REPORT

Review committee findings and recommendations on restricting issuance of Intent-to-Serve letters

The following members of the public spoke:

Ed Eby, NCSD resident – stated that according to the minutes of the last meeting, a committee was to be set up to study the process for Intent-to-Serve letters. The committee had several meetings and I wasn't aware that this process was even considered or discussed. He stated that he assumed today the Board will continue the moratorium on Intent-to-Serve letters or discuss the process on future Intent-to-Serve letters. An article in the paper said that nothing was going to be done today. Another month has been wasted and our impending water shortage is one month closer with no action. He urged the Board to take some action and institute a process for the allocation of Intent-to-Serve letters.

Homer Fox, NCSD resident – stated that he had turned in a questionnaire this morning and wants the Board to read it.

Jon Seitz, District Legal Counsel, explained that he has been working with the County and they understand the situation. There needs to be coordination in the process.

President Winn stated that there was not a lot of public input at the meetings.

Director Vierheilig asked Mr. Seitz about some figures in the minutes of the ad hoc committee. Does Nipomo have 172K AF of water or 17.2K?

Mr. Seitz answered that the analysis was taken from a 1997 report. The court determined that this is one basin and not considered as sub basins. He asked if the Board wanted to continue with the waiting list for Intent-to-Serve letters.

Director Blair does not agree with restricting Intent-to-Serve letters. He made a motion to continue issuing Intent-to-Serve letters. The motion died for lack of a second.

D-1) REVIEW AD HOC COMMITTEE REPORT (CONTINUED)

Jon Seitz, District Legal Counsel, stated that these findings and these actions will be taken based on the staff report, the ad hoc report, and the public comment that was received, specifically the findings, the Superior Court's determination of safe yield and management is pending. The true production capacity of the Nipomo Valley wells are not verified. The District has not entered into an agreement for the delivery of supplemental water and those basic findings contained in the staff report with reference to the various reports referred to and that these rules are being enacted and actions are being taken on an interim basis for the health safety and welfare of the District residents. Mr. Seitz read the following from the approved Minutes of the June 28, 2004, NCSD Board meeting.

- i. Form an Ad Hoc Committee consisting of two (2) Board members and other members of the public to return to the Board with a recommendation for allocating Intent-to-Serve Letters between residential, mixed-used and multi-family units and the procedures for developing a waiting list; and
- ii. Direct Staff to delay processing Intent-to-Serve Letters until the application methodology is resolved, but to continue issuing Will-Serve Letters that are in the process.
- iii. Direct the District Consulting Engineer to meet with SAIC and USGS to determine whether or not there are diagnostic tools available to more accurately predict when seawater intrusion and well-water degradation (water quality) could occur under various scenarios.

Mr. Seitz noted that we are not here to deny Intent-to-Serve letters. We are trying to develop a methodology allowing Intent-to-Serve letters to go forth.

Upon motion of Director Vierheilg and seconded by President Winn, the Board agreed to continue the item until the next meeting and the restriction of issuance of Intent-to-Serve letters. Vote 3-0

D-2) REVIEW PHASED PAYMENT PROGRAM

Review payment of water/sewer capacity fees in phases

The Board heard the reasons that Staff is not in favor of a phased payment program as outlined in the Board letter.

The following members of the public spoke:

Erik Benham, Maria Vista developer, stated that NCSD is the only agency with this kind of a policy. He stated that the idea that the District is carrying his project is an insult. He states that he is paying for water being used in his project.

Greg Nester, local developer and president of the Homebuilder's Association - agreed that the District's time to pay fees is inappropriate for phasing and recording. There are bona fide phasing processes but the developer needs to name the project phased from the beginning. He offered his services to discuss a possible solution with Board members. He stated that phasing is regulated through the County and the State.

Jon Seitz, District Legal Counsel, stated that ordinances are developed for District-wide and not case by case.

Upon motion of Director Blair and seconded by Director Vierheilg, the Board agreed to continue the item to allow staff to negotiate possibly improving the current policy and bring it back at the next meeting. Vote 3-0

D-3) REVIEW DEVELOPMENT OF DANA WELLS

Status of design and improvements for Dana Wells No. 1 & 2

Jon Seitz, District Legal Counsel, stated that the annexation agreement required the Maria Vista developer to bring water to the District. The agreement was to develop the Dana Wells. The developer does not own the wells. Developer is required to build infrastructure according to District standards and dedicates the accepted infrastructure to the District. It is no secret that Mr. Garing stated that the wells would produce more water than the development needed. Mr. Benham has always had legal counsel representing him when the agreements were signed.

Director Blair suggested cooperation with the design of the wells.

Greg Nester suggested that the District implement a pre-engineering meeting.

D-4) REQUEST FOR VARIANCE – LINDA VISTA APTS CO 00-0155

Request for variance for a separate fire service for the development

The developers for the Linda Vista Apartments have requested a variance.

The following members of the public spoke:

Marshall Ochylski, attorney for the developer – stated that there was a lack of communication between the developer and the District. The approved plans show combined domestic fire protection system. It is felt that they have complied with the ordinance. CDF suggested separate locks for each unit. He suggested a prepayment on the water bill so it would not reach the turn-off point and \$500 deposit for the inconvenience to the District.

Jim O'Loughlin, contractor for Fire Sprinkler System – stated that the design submitted to CDF was approved.

Angela Harrison, employee for Pruitt family – assured the Board that the water bill would be paid in a timely manner.

Mr. Ochylski stated there was a misunderstanding of the ordinance.

Director Vierheilg suggested that the system could not be run efficiently at 13.4 psi. It seems Staff's interpretation of the ordinance concerning the fire system disagrees with the developer's.

Mike Hodge, EDA – answered that their office did not prepare the design for fire system.

Mr. O'Loughlin stated that his registered engineer designed the system at 13.4 psi.

Mr. Seitz read the portion of the ordinance which pertains to this item:

A detector-check type meter shall be required on all private fire service connections.

The customer's installation must be such as to effectively separate the fire system from that of the regular water service system.

Director Vierheilg suggested that Ordinance 3.04.140 be made clear hereafter.

Director Vierheilg made a motion to deny the variance request. Director Blair seconded the motion. President Winn stated that he could not support the motion. Vote 2-1 with President Winn voting no.

Upon motion of Director Vierheilg and seconded by Director Blair, the Board agreed to continue this item until the full Board is present and also to supply water to the project for leak testing for two weeks with the understanding that there will be no occupancy in the apartments. Vote 3-0

At 11:25 a.m. President Winn called for a break.

- D-5) REQUEST FOR SERVICE – TRACT 2494 (WEATHERFORD)
Request to renew Intent-to-Serve letter for water & sewer service for an 18-lot dev. on W Tefft

The District received a request to renew an Intent-to-Serve letter originally issued in August 2002. There was no public comment. Upon motion of Director Vierheilg and seconded by Director Blair, the Board unanimously approved the issuance of an Intent-to-Serve letter with the conditions outlined in the Board letter. Vote 3-0

E. OTHER BUSINESS

- E-1) UPGRADE DISTRICT SCADA SYSTEM - iPAAC
Consider contract to install/upgrade SCADA system

Jon Seitz, District Legal Counsel, described the method that was followed to obtain proposals from firms to upgrade the present SCADA system and install some new equipment. Staff concludes that iPAAC has the necessary qualifications and experience to engineer, program, and install a District-wide SCADA system consistent with the District's objectives. Upon motion of Director Blair and seconded by Director Vierheilg, the Board unanimously approved a resolution awarding a contract to iPAAC for the design, programming and installation and upgrading of the telemetering SCADA system and that an additional twenty-five thousand dollars (\$25,000) be approved from the Replacement Reserve Fund to fund this project. The award of the contract is conditioned on iPAAC and the District executing a contract that meets the approval of District Legal Counsel. Vote 3-0

**RESOLUTION 2004-912
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AWARDING A CONTRACT TO iPAAC
FOR THE SCADA SYSTEM**

- E-2) WATER BILL DISPUTE - PERRY
Review water use changes

The Board discussed the delinquent bill for Mr. Perry. Mr. Perry was not present at this Board meeting. Jon Seitz, District Legal Counsel, advised the Board of several options to collect the money due. There was no public comment. Upon motion of Director Blair and seconded by Director Vierheilg, the Board unanimously agreed to continue with the regular turn off procedure. Vote 3-0

- E-3) CONFLICT OF INTEREST CODE
Biennial review of the District Conflict of Interest Code

Upon motion of Director Blair and seconded by Director Vierheilg, the Board unanimously agreed to table this matter until the full Board was present. Vote 3-0

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 July 9, 2004, Special Board meeting
Minutes of July 14, 2004, Regular Board meeting
Minutes of July 16, 2004, Special Board meeting
- F-3) INVESTMENT POLICY - 2ND QUARTER REPORT [RECEIVE AND FILE]

There was no public comment. Upon motion of Director Vierheilig and seconded by Director Blair, the Board unanimously approved the Consent Agenda. Vote 3-0

G. MANAGER'S REPORT

Doug Jones, District General Manger presented information on the following:

RATE STUDY PROPOSAL

The Rate Study proposals were given to the Finance Committee for their review.

Upon motion of Director Vierheilig and seconded by Director Blair, the Board decided to cancel the regular meeting scheduled for August 11 and change it to August 4, 2004 at 10:00 a.m. Vote 3-0

H. COMMITTEE REPORTS

Director Vierheilig reported that the Finance Committee (Directors Trotter and Vierheilig) met to discuss the Rate Study proposals. They agreed to suggest The Reed Group to perform the rate study.

President Winn reported that the Ad Hoc Committee (Directors Trotter and Winn) has prepared recommendations for the Board.

I. DIRECTORS COMMENTS

Director Blair stated that CDF plans to change the 500 gpm to 1000 gpm for fire protection. Director Vierheilig stated that he and Director Blair were on a conference call concerning desalination. He has information available.

President Winn stated that NCAC wants to set up a parks and recreation committee and would like some members of the NCSD Board to join the meetings.

There was no public comment on the items to be discussed in Closed Session.

Jon Seitz, District Legal Counsel, announced the need to go into Closed Session to discuss the following:

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.
- B. PUBLIC EMPLOYMENT – GENERAL MANAGER GC\$54957

The Board came out of Closed Session and had no reportable action.

ADJOURN

President Winn adjourned the meeting at 1:12 p.m.

The next regular Board meeting will be August 4, 2004.