

# NIPOMO COMMUNITY SERVICES DISTRICT

AUGUST 25, 2004

8:00 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, 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

President Winn called the meeting to order at 8:07 a.m.

At Roll Call the following members were present:

Directors Vierheilig, Blair, Wirsing and Winn. Director Trotter arrived a few minutes later.

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

#### **OPEN SESSION 9:00 a.m. (APPROX)**

##### **A. CALL TO ORDER AND FLAG SALUTE**

President Winn called the Open Session of the meeting to order at 9:10 and led the flag salute. Jon Seitz, District Legal Counsel reported out of Closed Session. The Board took action on the Santa Maria groundwater adjudication on a 5-0 vote. The Board agreed for our counsel to dismiss the Santa Maria Valley Water Conservation District from the lawsuit.

##### **B. ROLL CALL**

Roll Call was taken at the Closed 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.**

The following members of the public made comments:

Stephanie Wald of the Nipomo Water Shed Group, resident of Oceano – stated that the mission is to provide creek management for the Nipomo Water Shed. There will be a meeting September 18<sup>th</sup> 6:00 p.m. at NCS D building.

Erik Benham read a letter from him to the District and demanded that a Will-Serve letter be issued for his project.

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

###### **D-1) PRESENTATION BY JOHN HAND OF THE SAN LUIS OBISPO COUNTY ON THE RESOURCE CAPACITY STUDY, WATER SUPPLY IN THE NIPOMO MESA AREA AUGUST, 2004**

Presentation by John Hand of the San Luis Obispo County on the Resource Capacity Study, Water Supply in the Nipomo Mesa Area, August, 2004.

John Hand presented a report to the Board on the Resource Capacity Study, Water Supply in the Nipomo Mesa Area. He showed a slide entitled the "Summary of Recommendations." There will be a study session August 26 with the Planning Commission. He stated that NCS D serves 25% of the Mesa.

D-1) PRESENTATION BY JOHN HAND OF THE SAN LUIS OBISPO COUNTY ON THE RESOURCE CAPACITY STUDY, WATER SUPPLY IN THE NIPOMO MESA AREA - AUGUST, 2004 (continued)

The following members of the public spoke:

Ed Eby, NCSD resident – stated that the report was thorough and objective. It gives several options. He is concerned that #5 to implement conservation programs with rate increases seems punitive for current NCSD customers.

John Brantingham, Economic adviser to the supervisors, Nipomo property owner – stated that it is important for the County to work with NCSD, Cal Cities and other water purveyors. He stated that he has issues with the land development measures.

Greg Nester, local builder, developer and NCSD customer – urged the Board to take forward direction with development.

Jesse Hill, outside District resident - stated that some projects will use less water than the existing farming uses. Consider the exemption projects when planning issues are addressed.

Homer Fox, NCSD customer – stated that he is puzzled how the Woodland project was approved if this area has such problems.

Mr. Jones explained that Woodland project is outside District boundary.

President Winn stated that NCSD had reservations as Mr. Fox stated. NCSD has a Memorandum of Understanding with the developers of Woodland project that measures would be addressed if the pumping depression caused problems and would take supplemental water from NCSD to balance out that portion of the basin.

Director Trotter – stated that the graphics presented at the high school were excellent.

Director Blair – stated that the SM Times reported that the if the City of Santa Maria drops the law suit against the Santa Maria Valley Conservation District then NCSD will drop it. Well measurements show that we are not in as much trouble as some may think. We need a management process.

The Board thanked Mr. Hand for his presentation.

D-2) REVIEW AD HOC COMMITTEE REPORT

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

President Winn summarized some of recommendations made by the task force.

- Placed confidence in the studies that has been made and the data that was collected by the State.
- Would be guided by the rulings of the court.
- The focus was on a much larger picture.
- The District should make conjunctive use of the basin until supplemental water is locally available.
- Supported County recommendation to stay at 2.3% annual growth rate and to exempt commercial and mixed use in accordance with County policy
- Base year should be 2003

Director Vierheilg – If the District limits Intent-to-Serve letters then it will be across the Board, stated that everybody (residential-mixed use) takes their hit in their share of the pie.

Director Wirsing – asked when the use of the County Growth Ordinance of 2.3% would be implemented.

Jon Seitz, District Legal Counsel – stated that a draft ordinance is being circulated to staff and the County and is based on some of the recommendations of the Ad Hoc Committee. The plan is to use the 2.3% growth rate applied to the 2003 growth. The conceptual ordinance will be discussed at the next Board meeting on September 7<sup>th</sup> and brought to the September 22<sup>nd</sup> meeting for the first reading.

D-2) REVIEW AD HOC COMMITTEE REPORT (CONTINUED)

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

The following members of the public spoke:

Greg Nester, developer, NCSD customer – stated that limiting Intent-to-Serve letters is a short sighted issue.

John Brantingham, outside District resident – complimented the Board but also advised the Board to take care limiting the letters.

Homer Fox, NCSD resident – stated he thinks the will-serve letter system should be left the way it is.

No action was taken.

Director Trotter stated that development fees do not drive up the prices of housing. It is the market.

Director Wirsing stated that when Woodlands comes on line, it may cause problems and it is the obligation of this District to be watchful for the community.

President Winn called for a short break.

D-3) REQUEST FOR VARIANCE – LINDA VISTA APTS CO 00-0155

Request for variance for a separate fire service for the development

The developers of the Linda Vista Apartments have requested a variance for a separate fire service for the development. Jon Seitz, District Legal Counsel, stated that Mr. Jones will be meeting with CDF to clarify the issue involved with this development.

The following members of the public spoke:

Marshall Ochylski, attorney for the applicant – stated that a letter from the CDF approving the existing fire system. He described the fire system as designed by the fire contractor.

Michael Smith, NCSD resident – stated that there are several ways to work around this design to achieve the desired fire protection.

Mr. Ochylski – stated that it is a single metered system.

Director Trotter made a motion to grant the variance requested. Director Vierheilg seconded but to revisit the ordinance covering fire service because the District Code may be in conflict with CDF regulations. Vote 2-3 with Directors Wirsing and Winn voting no and Director Blair abstaining which counts as a negative vote.

Upon motion of Director Trotter and seconded by Director Vierheilg, the Board approved Resolution 2004-913, with amendments as suggested by legal counsel, to grant the variance with the delayed as-builts and to revisit the ordinance for a possible conflict with CDF. Vote 4-1 with Director Blair abstaining.

**RESOLUTION 2004-913  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO  
COMMUNITY SERVICES DISTRICT GRANTING A VARIANCE FOR THE  
LINDA VISTA TOWNHOMES CO-00-0155**

D-4) 3<sup>RD</sup> ANNUAL NIPOMO CREEK CLEAN-UP WEEK

Request by The Land Conservancy for financial assistance for the 3<sup>rd</sup> Annual Nipomo Creek Clean-up Week

The Board discussed the request from the Land Conservancy for financial assistance for the Nipomo Creek Clean Up Week scheduled for September 20-24<sup>th</sup>.

The following members of the public spoke:

Bob Hill, Land Conservancy – explained the purpose and process of the Creek Clean Up Week. A specific amount was not requested because the cost is yet unknown. The Calif. Conservation Corps is \$5,000 for a week. The Coastal Roll-Off cost will depend on how much is hauled.

Stephanie Wald, Central Coast Salmon Enhancement – explained the clean up involving the public in October.

D-4) 3<sup>RD</sup> ANNUAL NIPOMO CREEK CLEAN-UP WEEK (CONTINUED)

Request by The Land Conservancy for financial assistance for the 3<sup>rd</sup> Annual Nipomo Creek Clean-up Week

Ed Eby, NCSD resident – stated that this is a good opportunity to realize the efficiency of volunteer labor. He urged the Board to support this effort.

President Winn explained how enterprise funding works. The money used must be associated with Solid Waste taken out of the District boundaries.

Upon motion of Director Blair and seconded by Director Trotter, the Board unanimously authorized funding as follows:

- not to exceed \$5,000 from the Solid Waste Fund for expenditures for the Creek Clean Up Week
- the conditions of use of the funding (that NCSD pays one-half of the CCC contract)
- with accountability given to be sure that all the money spent is a direct benefit to the residents inside the District and the vendors will be instructed to bill the District directly
- request IWWA credit for green waste
- request that the Land Conservancy prominently acknowledge NCSD participation in the funding of the project.

Vote 5-0.

E. OTHER BUSINESS

E-1) SPECIAL DISTRICTS PUBLIC INFORMATION PROGRAMS

CSDA requests support for a Public Education Program

The Board discussed the request from CSDA for financial support for a Public Education Program. There was no public comment. Upon motion of Director Blair and seconded by Director Vierheilg, the Board unanimously approved \$1,000 contribution to the funding of a special district publication program. Vote 5-0

E-2) CONFLICT OF INTEREST CODE

Biennial review of the District Conflict of Interest Code

Jon Seitz, District Legal Counsel, reviewed the District's Conflict of Interest Code. There was no public comment. Upon motion of Director Vierheilg and seconded by Director Wirsing, the Board unanimously approved Resolution 2004-914. Vote 5-0

**RESOLUTION NO. 2004- 914  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT VERIFYING  
ITS BI-ANNUAL REVIEW OF ITS CONFLICT OF INTEREST CODE  
AND REVISING DISTRICT'S REPORTING POSITIONS  
AND REPORTING CATEGORIES**

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 August 4, 2004, Regular Board meeting

Minutes of August 6, 2004, Special Board meeting

F-3) AUTHORIZATION TO SURPLUS DISTRICT EQUIPMENT [RECOMMEND APPROVAL]

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

G. **MANAGER'S REPORT**

President Winn reported for Doug Jones, General Manager, who needed to leave the meeting to attend another meeting.

- Pipeline through the park is almost complete.
- Well at Hermreck property is in the process of being drilled and Mr. Cleath has taken the contract of the geological survey to give us the analysis.
- Dana Wells status – nothing has happened since the last Board meeting.

**H. COMMITTEE REPORTS**

There are no committee reports.

**I. DIRECTORS COMMENTS**

Director Blair – stated that he attended the Secondary Dwelling Workshop in San Luis Obispo put on by the Economic Advisory Committee.

Director Vierheilig stated that staff should be meeting with CDF for the appropriate design for residential, commercial etc.

He had a conversation with Mr. Markman about budgets and charges for legal services. Wireless antenna committee is asking for some donation to the Friends of the Library from the proceeds of the rental income. Perhaps how the money is spent needs to be on the agenda.

Director Wirsing would like to have an item put on the agenda discussing the protocol of sending letters with respect to the directors' votes.

She also asked if the some money from the antenna site rental could be used to televise a candidate's forum.

Director Trotter stated that the well water monitoring information is grossly inadequate. Would like the data to be more extensive. Would like to agendize that Board give staff direction for well measure reporting.

President Winn stated that on September 11, 2004, 1:30 p. m. at the Dana Adobe, the two candidates, who are running for the 4<sup>th</sup> District supervisor, will face off with questions from the public. This is put on by Save the Mesa. He encouraged the other Board members to attend. He also stated that we received a large pile of materials from Paavo Ogren from County staff, looking at the lighting district, drainage issues, etc. on the west side. The Parks and Rec. Committee of the NCAC will join Mr. Winn to do a photo survey.

Planning Commission Study Session August 26, 2004 at 8:45. He encourages Board members to attend. LAFCo has been nominated for State Project of the Year with their work on the Sphere of Influence and Municipal Service Review. He sent a letter supporting LAFCo. Letter to APCD was sent but no correspondence has been sent back. A message was left on his answering machine stating that the ban on burning of green waste will go on as planned and that the APCD staff would not allow a public hearing on the ban on burning.

There is no need to go into Closed Session.

**ADJOURN**

President Winn adjourned the meeting at 12:20 p.m.

**The next regular Board meeting will be September 7, 2004.**