

NIPOMO COMMUNITY SERVICES DISTRICT

SEPTEMBER 7, 2004

TUESDAY

9:00 A.M.

MINUTES

SPECIAL 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 of September 7, 2004, to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, the following Board members were present:
Directors Vierheilig, Trotter, Wirsing and Winn. Director Blair had a planned absence.

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.

C-1) COMMANDER MARTIN BASTI OF SOUTH COUNTY SHERIFF STATION

Presentation of sheriff activities in the Nipomo area

Commander Basti reported to the community the following information:

Sunday night there was a pursuit from Santa Maria.

Identity theft information is available in NCSD office.

Training available for volunteers to patrol your neighborhood.

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

D-1) SUPPLEMENTAL WATER SUPPLY - MEMORANDUM OF UNDERSTANDING (MOU)

Approve MOU between NCSD and City of Santa Maria for supplemental water supply

Mr. Bill Dendy of Dendy & Associates reviewed the Memorandum of Understanding (MOU) between NCSD and the City of Santa Maria. He stated that the reason for the agreement is that the area is believed to be in an overdraft and this may prevent seawater intrusion. A very important statement in the agreement is as follows:

"In exchange for payment of a reservation fee as provided for in Section 3.1 of this MOU, City will reserve for NCSD an exclusive right to the Supplemental Water until such time as NCSD has completed the necessary infrastructure and is able to take delivery of the Supplemental Water. Thereafter, City shall provide the Supplemental Water to NCSD as provided in the Agreement."

He went on to summarize the MOU. There are two payment options NCSD may choose.. He explained the possible rate structure that could be implemented to pay for the increased cost of the supplemental water.

Mr. Dendy answered questions from the Board.

D-1) SUPPLEMENTAL WATER SUPPLY - MEMORANDUM OF UNDERSTANDING (MOU) (CONTINUED)

The following members of the public spoke:

Ed Eby, NCSD resident – stated that he had 3 areas to talk about:

1. Environmental determination
 - Who is to do the initial study?
 - How long will it take?
 - Will the public be brought in for the process?
 - How does this process fit in with the December agreement date?
2. Liability
3. Schedule

Gale Gascho, NCSD resident - spoke in favor of this MOU because of Summit Station restrictions.

Jerry Bunin, Home Builders Assn. – spoke in favor of Santa Maria Water.

Jim Markman, water rights adjudication lawyer – answered some questions from the public. He stated that a CEQA document is not a requirement if the project does not go through. He explained that the full EIR process will be followed.

Director Trotter stated that the final agreement will be in much greater detail.

Upon motion of Director Vierheilig and seconded by Director Trotter, the Board unanimously approved the MOU with the City of Santa Maria. Vote 4-0

D-2) DRAFT ORDINANCE ALLOCATING INTENT-TO-SERVE LETTERS

Review proposed ordinance concerning issuance of Intent-to-Serve letters for water service

Jon Seitz, District Legal Counsel – summarized the draft ordinance presented for Board and public comment.

The purposes of the draft ordinance are as follows:

1. To promote public health and safety and to avoid water shortage emergencies by establishing a maximum annual water allocation for residential water service within the District boundaries.
2. To promote conservation by establishing goals for the maximum beneficial use of water by residential category.
3. To allocate water service by categories to avoid a particular category from being excluded from participation and receiving water service.
4. To establish a maximum allocation for any one project during an allocation year, so as to allow greater opportunity for all projects in a category to participate and to receive water service.
5. To avoid speculation by requiring applicants to diligently process their projects consistent with the rules and regulations of the County of San Luis Obispo.
6. To provide flexibility by allowing the Board to consider redistributing allocations at the end of each allocation year.

He explained the allocations as follows:

ALLOCATION BY CATEGORY

- A. Residential single-family is allocated thirty (30) AFY (Section IV (A) (1)) therefore, using 0.45 AFY per dwelling unit the District could anticipate authorizing service for approximately sixty-six (66) residential units and/or duplexes per allocation year with any one project receiving a maximum allocation of approximately thirteen (13) units per year.*
- B. Multi-family is allocated fourteen (14) AFY, therefore using 0.18 AFY per dwelling unit, the District could anticipate authorizing service for approximately seventy-eight (78) multi-family units per allocation year, with any one project receiving a maximum allocation of approximately fifteen (15) units per year.*

*Absent the potential for reallocation at the end of each allocation year.

D-2) DRAFT ORDINANCE ALLOCATING INTENT-TO-SERVE LETTERS (continued)

The following members of the public spoke:

Sheryl Flores, People's Self Help Housing – asked the Board why there was no affordable housing exemption.

Greg Nester, local builder/developer and NCSD customer – stated that sometimes policies seem to be inconsistent with the County. He thanked the Board for the supplemental water consideration.

Ed Eby, NCSD resident – stated he was concerned about the 2.3% growth rate chosen to allocate water. The number should be based on the water supply situation and not State growth.

John Brantingham, outside District – stated that the ordinance seems to be directed at the problem NCSD has with water but also seems to be directed at how not to grow rather than planning what you want.

Jerry Bunin, Home Builders Assn. – stated that this process seems unnecessary and premature. It only causes the cost of housing to go higher.

Mr. Seitz asked Mr. Bunin what the objections of the HBA are. Mr. Bunin stated that he would have more answers at the next meeting. Mr. Seitz also read from his statement about Title 26 in the Board letter.

1. To establish an annual rate of growth that is consistent with the ability of community resources to support the growth, as established by the Resource Management System (RMS) of the County General Plan;
2. To establish a system for allocating the number of residential construction permits to be allowed each year by the annual growth rate set by the County Board of Supervisors; and
3. To minimize adverse effects on the public resulting from a rate of growth which will adversely affect the resources necessary to support existing and proposed new development as envisioned by the County General Plan.

Director Vierheilg prefers using the word consumption rather than production in the 51AFY. Director Wirsing reiterated the purpose of Title 26 is to establish regulations to protect and promote the public health, safety and welfare of the community. The Board is elected by the ratepayers and it is the responsibility of the Board to protect them.

The Board reviewed the ordinance and made suggestions for changes.

Mr. Seitz stated that existing Intent-to-Serve letters would be exempt from the 51 AFY allocation.

Upon motion of Director Trotter and seconded by President Winn, the Board approved the draft ordinance with the additions suggested. Legal Counsel will bring it back with the changes incorporated before final approval. Vote 3-1 with Director Vierheilg voting no.

D-3) STREET SWEEPING AND TRASH RECEPTACLES

Review areas for providing this service

Lisa Bognuda, NCSD Assistant Administrator presented information to the Board concerning the potential of street sweeping services and trash receptacles in the commercial area of Nipomo.

A Sub-Committee was formed consisting of Director Wirsing (chair) and President Winn to investigate and make a recommendation to the Board.

The following members of the public spoke:

Dick Mobraaten, NCSD resident – stated that trash cans will not reduce the trash thrown from cars.

- D-4) APPRAISAL SERVICE
Consider appraisal service for the Rim Rock proposed water storage facility site

The Board considered appraisal service for the proposed Rim Rock water storage facility site. There was no public comment. Upon motion of Director Trotter and seconded by Director Vierheilig, the Board agreed to retain the services of Todd Murphy from Schenberger, Taylor, McCormick and Jecker in the amount of \$4,500. Vote 4-0

E. OTHER BUSINESS

- E-1) NIPOMO PUBLIC LIBRARY
Request for a Public Service Announcement

The Board discussed the request from the "Save Our Public Library Committee" Co-Chair James Mass for inserted information about library activities into the NCSD water bills.

There was no public comment.

Upon motion of Director Vierheilig and seconded by Director Wirsing, the Board denied the request from the library. Vote 4-0

- E-2) CSDA BOARD OF DIRECTORS ELECTIONS
Vote for a member to the CSDA Board

The Board discussed the two members being considered for a position on the CSDA Board for 2004 for Region 4, which includes San Luis Obispo County.

The following members of the public spoke:

Ed Eby, NCSD resident – stated that he received two agendas. Will there be an item E-3?
{Answer-yes}

Upon motion of Director Wirsing and seconded by Director Trotter, the Board agreed to retain Mr. Miller, General Manager of the North of the River Water District. Vote 3-1 with Director Vierheilig voting no.

- E-3) DISTRICT BOARD OF DIRECTORS ELECTION
Sponsor a voter information forum

The Board discussed a possible forum to allow candidates running for the NCSD director positions.

The following members of the public spoke:

Mike Smith, NCSD resident – supports another forum sponsored by a different group without pre selected questions so candidates may answer from the cuff.

Ed Eby, NCSD resident – stated that the STM group is not sponsoring a particular candidate or it would lose its tax exempt status. He also supports another forum.

Dick Mobraaten, NCSD resident – stated that the Board should not sponsor a forum.

Upon motion of Director Vierheilig and seconded by Director Wirsing, the Board unanimously agreed not to sponsor, conduct, or organize a candidate's forum or make any recommendations. 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 August 25, 2004, Regular Board meeting
F-3) ACCEPTANCE OF WATER/ SEWER IMPROVEMENTS–APN 090-363-024 & 025 [RECOMMEND APPROVAL]
Resolution accepting water and sewer improvements for APN 090-363-024 & 025 (Fox) Res 2004-915

**RESOLUTION NO. 2004-915
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER AND SEWER IMPROVEMENTS
FOR THE APNS 090-363-005 AND 090-363-017 (FOX)**

F .CONSENT AGENDA (continued)

- F-4) SAFETY MEETING MINUTES [RECOMMEND APPROVAL]
Filing of the August 27, 2004 Safety Meeting Minutes
- F-5) QUITCLAIM DEED - Peoples' Self Help Housing Corporation [RECOMMEND APPROVAL]
Execute a Quitclaim Deed to remove a document from the title report

Director Vierheilg asked that Item I have "will" changed to "should" in his comments concerning contacting CDF.

Director Wirsing stated that in Item D-3 she misunderstood the decision made for the request for a variance. She stated that she is not happy with the fire protection. It's a very important thing. She stated that she would have voted no if she had better understood the final decision and would like a copy of the recording to see where she misunderstood.

President Winn asked about the absent members of staff at the Safety Meeting getting a make-up meeting. He also suggested to specify an award program as incentive for following the safety suggestions.

Upon motion of Director Vierheilg and seconded by Director Trotter, the Board unanimously approved Consent Agenda with several amendments in the Minutes of the August 25, 2004, meeting and Director Wirsing reserves to right to comment further concerning the Linda Vista Apartments. Vote 4-0.

G. MANAGER'S REPORT

Doug Jones, District General Manager, reported to the Board that a couple of trees were stolen from in front of the District office building and from the perimeter of the lift station.

H. COMMITTEE REPORTS

None

I. DIRECTORS COMMENTS

Director Trotter asked for different well measurement information than the way it was presented.

Director Wirsing asked to have an item put on the agenda concerning correspondence sent to customers containing information about how the Board members voted on a particular subject. She also asked that an item be put on the agenda about televising a candidate's forum. Can we contribute or allocate funds to televise a candidate's forum?

Director Vierheilg stated that he spoke with Mr. Markman concerning the \$200K budgeted for the groundwater litigation. Over \$32K has already been spent this fiscal year.

Director Winn offered several dates for events in the future.

- Meeting with the City of Santa Maria will be at 6:30 today. He encouraged Board members to attend.
- There will be a candidate's forum Sat. Sept 11 at Dana Adobe 1:30 – 3:30 p.m. at the Save the Mesa meeting. Two supervisor candidates will be answering questions. He encouraged Board members to attend.
- Friday, September 24, 2004 from 5:00 p.m. to 7:30 p.m. there will be a reception at the Blacklake Golf Course Club House honoring Doug Jones.
- Saturday, October 2, Creek Clean-Up.
- Saturday. October 9, October Festival.

Wednesday, October 13, at 7:30 p.m. Lucia Mar candidate's forum at Nipomo High School. The date for a NCSD candidate's forum sponsored by the Chamber of Commerce is yet to be announced.

There is no need to have a Closed Session.
The next meeting will be September 29, 2004.

ADJOURN

President Winn adjourned the meeting at 12:37 p.m.