

# NIPOMO COMMUNITY SERVICES DISTRICT

SEPTEMBER 29, 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

MICHAEL LeBRUN, **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 29, 2004, to order at 9:06 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.**

There was no public comment.

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

##### D-1) NCSD BOARD RESOLUTION

Recognition of LAFCo's efforts on Nipomo Community Services District's Sphere of Influence

President Winn read the proposed resolution.

Paul Hood, Executive Officer for LAFCo, thanked the Board for the resolution. He recognized David Church, LAFCo analyst, for his diligent work. He stated that he appreciated the work of the NCSD Staff and Board.

There was no public comment.

Upon motion of Director Vierheilig and seconded by Director Wirsing, the Board unanimously approved Resolution 2004-916 recognizing LAFCo. Vote 4-0.

##### **RESOLUTION 2004-916**

**A RESOLUTION BY THE NIPOMO COMMUNITY SERVICES DISTRICT RECOGNIZING THE LOCAL AGENCY FORMATION COMMISSION FOR RECEIVING THE PROJECT OF YEAR AWARD FROM CALAFCO FOR THE SPHERE OF INFLUENCE UPDATE, MUNICIPAL SERVICE REVIEW, AND ENVIRONMENTAL IMPACT REPORT PREPARED FOR THE NIPOMO COMMUNITY SERVICES DISTRICT**

##### D-2) RESOLUTION AND ORDINANCE ALLOCATING WATER SERVICE

Consider resolution adopting a Negative Declaration pursuant to the California Environmental Quality Act and consider ordinance establishing annual water allocation within the District

Jon Seitz, District Legal Counsel, reviewed the proposed ordinance.

D-2) RESOLUTION AND ORDINANCE ALLOCATING WATER SERVICE (CONTINUED)

Mr. Seitz explained that the purposes of the 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 grant a priority for the provision of available resources to proposed housing developments which help meet the County of San Luis Obispo's share of regional housing need for lower income households as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisors.
6. To avoid speculation by requiring applicants to diligently process their projects consistent with the rules and regulations of the County of San Luis Obispo.
7. To provide flexibility by allowing the Board to consider redistributing allocations at the end of the second (2<sup>nd</sup>) quarter and in the middle of the fourth (4<sup>th</sup>) quarter of each allocation year.

The Ordinance establishes a maximum water allocation of fifty-one (51) AFY for residential development. The fifty-one (51) AFY (3.05.040 (A)) of the Ordinance) was arrived at by multiplying the County's Growth Rate of 2.3 percent times the District's water production of 2,203 AFY for the Town Division. See July 19, 2004 Staff Report. He went on to explain how the categories were allocated.

Director Wirsing asked how the County's Level 3 severity would affect this ordinance.

Jon Seitz, District Legal Counsel, explained Level 3 Severity means that the current demand meets or exceeds the resources of water. If all of the County's recommendations are passed, the following may occur:

- Required 15% water reduction by water purveyors (consistent of LAFCo and the District's Urban Water Management Plan Section 5)
- No further general plan amendments which would increase water demand on the Mesa and means NCSO would not provide water to general plan amendments that would increase water demand
- Outdoor water measures seem to mix well with the water conservation measures in the District's new ordinance
- Implementation of well monitoring program for levels as well as water quality

Director Vierheilig asked about commercial exemption including and when do motels change into apartments? Mr. Seitz answered that motels are commercial and are to be excluded because water use is hard to regulate. The County would make the distinction between motels and apartments.

He also asked about separate landscape meter requirement in the ordinance and would like to have this brought back with some changes.

President Winn asked

- What would be the impact if motels and boardinghouses were included in the proposed ordinance?  
Mr. Seitz stated that perhaps the 51 AFY may need to be revisited if motels were included. Some study for water use would be needed.
- If a primary unit is determined to use 0.8 AFY and they came and asked for a secondary, would they be turned down?  
Mr. Seitz stated that it would need engineer's certification concerning water use

D-2) RESOLUTION AND ORDINANCE ALLOCATING WATER SERVICE (CONTINUED)

- Was the Urban Water Management Plan cited in the resolution as the foundation for this?

The following members of the public spoke:

Peter Candy stated that he was representative for the Nipomo Hills development.

President Winn recused himself because he owns property across from the proposed project for Nipomo Hills.

Mr. Candy asked about exemptions for annexations and stated that the project for Nipomo Hills has an independent water supply that does not overlie the basin.

Director Vierheilig stated that the pump tests do not necessarily guarantee an adequate source of water. There is still the possibility of connecting to the District's system.

Jon Seitz, District Legal Counsel, stated that the proposed ordinance will not apply to annexations or address projects on an individual basis.

Director Trotter suggested that the Board recognize the speaker's request and deal with it.

Ed Eby, NCSD resident – stated that the ordinance should not exempt annexations whether or not they overlie the depressed aquifer.

President Winn returned to the Boardroom.

Greg Hohman, RPL Management, representative for a multi-family development on Grande – asked Mr. Seitz how applications on the waiting list will be handled.

President Winn stated that his question would be addressed in the next agenda item.

Kathy Beck, NCSD resident in the Summit Station area – stated her concern about the ordinance not including general plan amendments.

Jerry Bunin, Government Affairs Director for Home Builders Assn. – stated that the proposed ordinance is much better than the first version but that it seems to be adding another layer of bureaucracy.

Greg Nester, local developer, NCSD customer – County is addressing the concerns of water use in landscaping

Dave Watson, King Ventures developer of Tract 2456 & 2312 – supports the Board in the efforts to provide water. He asked some questions about the regulated system being proposed. Will new subdivisions include no net increase in water consumption as the County proposes? He asked for clarification concerning affordable housing. He suggested a period of 90 days rather than 8 months to approve.

Mr. Seitz answered that lower income will be addressed in the ordinance.

Greg Hohman, RPL Management – stated his concern about how the ordinance will affect projects in progress.

Jon Seitz, District Legal Counsel, answered the questions posed by the public.

*Landscaping Issue* – He stated he is optimistic about the County's Landscaping policy.

*Groundwater Basin* – The location is debatable.

The Board agreed that they cannot support the ordinance today.

Mr. Seitz asked the Board for instructions to amend the ordinance.

The Board suggested an analysis on water use for motels & boardinghouses, water intensive commercial uses, etc. federal housing issues and to check on the County's water conservation ordinance.

Upon motion of Director Vierheilig and seconded by Director Trotter, the Board agreed to continue this hearing until the October 13, 2004 meeting. Vote 4-0

President Winn called for a 10-minute break.

- D-3) ALLOCATION ALLOTMENTS FOR INTENT-TO-SERVE LETTER WAITING LIST  
Consider administration of Intent-to-Serve ordinance to existing applications

Michael LeBrun, General Manager, explained that there is a waiting list of service applications that represents approx. 17 acre feet of water use. He recommended the Board exempt the waiting list applicants from the allotment condition and yet require all other conditions of the proposed ordinance.

The following members of the public spoke:

Richard McKuen (on waiting list) – asked about those people whose projects are on the waiting list. He also asked that the requirement secondary meter not be adopted.

Greg Hohman, RPL Mgmt – asked if the Board could agree to staff's recommendation. J C Martin, representing King Ventures leasing and the project at the former recreation building – stated that motels and restaurants are desired in the area but some lending agencies do not like to loan money for their development.

Scott Pace, Pace Builders Construction- encouraged the Board to proceed with the ordinance.

Director Vierheilg made a motion to continue this item. The motion died for a lack of a second.

Upon motion of Director Trotter and seconded by Director Vierheilg, the Board agreed to honor the existing applications on the waiting list and not apply to the 51 acre feet allotment in the proposed ordinance. Vote 3-1 with Director Wirsing voting no.

- D-4) CEQA PROFESSIONAL SERVICES  
Consider consultant service agreement for preparation of environmental documents for the supplemental water project

Mr. LeBrun explained to the Board that an environmental review and CEQA documents need to be prepared for the proposed supplemental water project with the City of Santa Maria as agreed upon within the Memorandum of Understanding. A proposal from Douglas Wood & Associates for \$113,000 was received to prepare the necessary environmental review documents.

Douglas Wood, Douglas Wood & Associates – described the process for the work planned for the CEQA review. He answered questions from the Board.

Mr. Seitz explained that consulting services are a quality-based service and there is no need to go out to bid to other consulting agencies.

The following members of the public spoke:

Greg Nester, local developer and NCSD customer – asked the Board to include time as an element in the analysis.

Ed Eby, NCSD resident – stated that a project of this size deserves public notice concerning, trade studies, engineer consideration. He would like more information

Homer Fox, NCSD resident – asked if his property off Hutton Road might be considered for the project and if NCSD would use eminent domain.

The Board discussed the agreement and answered some of the questions.

Upon motion of Director Vierheilg and seconded by Director Trotter, the Board unanimously approved the contract with Douglas Wood and Associates for professional consulting services to prepare the environmental documents supporting the supplemental water supply project.

Vote 4-0

- D-5) CINGULAR CELL SITE AGREEMENT  
Consider an agreement to allow Cingular to install communication antennas and equipment at the Hetrick Tank site

The Board discussed the agreement with Cingular to install antennas and equipment at the Hetrick Tank site.

There was no public comment.

D-5) CINGULAR CELL SITE AGREEMENT (CONTINUED)

Upon motion of Director Trotter and seconded by Director Wirsing, the Board unanimously approved the cell site agreement subject to the following:

1. Commencement of rent - September 29, 2004,
2. A fully signed copy of agreement no later than October 15, 2004
3. Include Certificates of insurance

and authorized the President of the Board to execute the agreement. Vote 4-0

E. OTHER BUSINESS

E-1) DISTRICT CONTRIBUTION TO TELEVISIONING CANDIDATE'S FORUM

The Board discussed the possibility of the District funding the televising of a candidate's forum. Mr. LeBrun read an electronic mail statement from Director Blair stating his non-support of this item. There was no public comment. Upon motion of Director Trotter and seconded by Director Wirsing, the Board unanimously agreed to allocate funds from the cell site income to televise the candidate's forum scheduled for October 2, 2004.

E-2) DISTRICT PROTOCOL WITH RESPECT TO CORRESPONDENCE AND BOARD ACTION

The Board discussed the protocol in publicizing the individual director's votes for items brought before the Board. It was discussed that the public is welcome to view the minutes. The following members of the public spoke:

Ed Eby, NCSD resident – supports the idea of letting the public know the vote. He offered his web site to provide the minutes to the District's meetings to the public.

The Board took no action on this item.

E-3) DISTRICT GUIDELINES FOR UPCOMING WATER AND SEWER RATE STUDY

Mr. LeBrun suggested a workshop for the week of October 18 to discuss guidelines for the water and sewer rate study to be prepared by The Reed Group, Inc., the firm selected to perform the study. The date will be finalized after coordinating with Mr. Robert Reed from The Reed Group. Committee members, Directors Trotter and Vierheilig, will attend the phone conference with Mr. Reed.

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 September 7, 2004, Special Board meeting

F-3) NOTICE OF COMPLETION [RECOMMEND APPROVAL]

File Notice of Completion for the Park/Camino Caballo waterline

F-4) ARTWORK AGREEMENT [RECOMMEND APPROVAL]

Agreement for the artwork for the District web site

F-5) ACCEPTANCE OF TRACT 2496 (PAYETTE) [RECOMMEND APPROVAL]

Resolution accepting water and sewer improvements for Tract 2496

F-6) SLO COUNTY WATER RESOURCES ADVISORY COMMITTEE [RECOMMEND APPROVAL]

Appoint General Manager, Michael LeBrun to the San Luis Obispo County WRAC

**RESOLUTION NO. 2004-916A**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE WATER AND SEWER IMPROVEMENTS  
FOR THE FOR TRACT 2496 (PAYETTE)**

Upon motion of Director Vierheilig and seconded by Director Wirsing, the Board unanimously approved the Consent Agenda. Vote 4-0

**G. MANAGER'S REPORT**

Michael LeBrun, District General Manager, reported the following to the Board.  
The new manager started September 13<sup>th</sup>.

- Field Supervisor, Dan Migliazzo, attended a two-day OSHA training seminar.
- Staff is planning an in-house safety meeting with electrical safety as the topic of discussion.
- Odor problems at the wastewater treatment plant have been greatly improved with some innovative steps taken by the Field Supervisor and Field Foreman, Butch Simmons.

**H. COMMITTEE REPORTS**

The Water Allocation Committee (Directors Trotter and Winn) met with the District's legal counsel.

**I. DIRECTORS COMMENTS**

Director Wirsing asked about the Ad Hoc Task Force. President Winn explained that Supervisor Achadjian's office and our Board collaborated to form the committee. Neither President Winn nor Director Trotter received NCSD compensation for being on this Task Force.

Director Trotter asked about water use in the Blacklake development. He offered his home as a way to check typical water use in the Blacklake area.

President Winn

- Asked staff to look at how to respond to RMS
- Large water use projects being brought NCAC (e.g. Cypress Ridge)
- Appreciates staff cooperating with CDF and other agencies
- Will be issues for planning decisions such as Cal Cities permits for secondary units, etc.
- Urged staff to look at the changes with the King Ventures project

Jon Seitz, District Legal Counsel, announced the need to go into Closed Session.

The following members of the public spoke:

Ed Eby, NCSD resident – asked about the anticipated litigation item on the Closed Session agenda.

Mr. Seitz explained that the matter before the Board is the Maria Vista claim concerning development fees.

**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. ANTICIPATED LITIGATION – ONE CASE – GC§54956.9

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

**ADJOURN**

President Winn adjourned the meeting at 1:52 p.m.