

NIPOMO COMMUNITY SERVICES DISTRICT

DECEMBER 15, 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**
CLIFFORD TROTTER, **DIRECTOR**
LARRY VIERHEILIG, **DIRECTOR**
ED EBY, **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 to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL

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:

Gale Gascho, NCSD customer – asked if Summit Station would be discussed during the meeting.

He asked the Board for “a break”. He would like to subdivide his property

Bob Blair, NCSD resident - stated that he owns four houses in the Summit Station area that receive NCSD water. He stated that NCSD customers cannot be treated differently.

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

Presentation of sheriff activities in the Nipomo area

Commander Basti gave an overview of the occurrences for the month.

- There was a bomb threat at the high school. There was great cooperation between the school officials and the Sheriff's Department.
- A program to educate children about riding in cars with strangers is upcoming.
- There were four new hires.
- Information regarding registered sex offenders will soon be made available on-line at Sheriff department's web site.

Happy Christmas to the entire Board.

C-2) DAN ANDERSON, CDF BATTALION CHIEF, CALIFORNIA DEPARTMENT OF FORESTRY (CDF) Information presentation

Jorge Castillo spoke in place of vacationing Dan Anderson.

He reported that the fire season was over in November. There have been no significant occurrences recently.

- D. 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 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 brackets.*

- D-1) WARRANTS [RECOMMEND APPROVAL]
- D-2) BOARD MEETING MINUTES
December 1, 2004 Regular Meeting [RECOMMEND APPROVAL]
- D-3) RESOLUTION RECOGNIZING SERVICE OF BOB BLAIR
- D-4) APPROVAL OF ATTORNEY FEES [RECOMMEND APPROVAL]
Approval of attorney fess agreement with law firm of Zimmer & Marcus, Summit Station
General Plan amendment
- D-5) ACCEPTANCE OF WATER AND SEWER IMPROVEMENTS [RECOMMEND APPROVAL]
Tract 2346 (Mid State Properties) a 5-lot development on Juniper St.

RESOLUTION 2004-923
A RESOLUTION OF THE NIPOMO COMMUNITY SERVICES DISTRICT
COMMENDING ROBERT L. BLAIR
FOR HIS SERVICE TO THE NIPOMO COMMUNITY

RESOLUTION 2004-924
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER AND SEWER IMPROVEMENTS
FOR THE FOR TRACT 2346 (MID STATE PROPERTIES)

Upon motion of Director Vierheilg and seconded by Director Eby, the Board unanimously agreed to pull Item D-4 and place at the end of agenda after Closed Session. Vote 5-0
The Board had questions about some items on the warrants. Lisa Bognuda, District Assistant Administrator, explained each questioned item.

There was a typo in Item G in the minutes.

Upon motion of Director Trotter and seconded by Direct Vierheilg, the Board unanimously approved Items D-1, 2, 3, & 5 on the Consent Agenda as amended in Item G of the Minutes. Vote 5-0

The following members of the public spoke:

Gale Gascho, NCSD customer – stated that he is frustrated because with all that the District is paying in legal fees, then the District is litigating against the County and he feels it is against him - a customer.

Bob Blair, NCSD customer – stated that the legal fees and suing NCSD customers doesn't seem right when property rights are being circumvented. He feels that the District is suing the people of the Summit Station area.

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

E-1) REVIEW STATE TAX SHIFT

Staff will present information on planned state tax shift impacts to District funds

District Manager, Michael LeBrun, reviewed the staff report.

The following member of the public spoke:

Bob Blair, NCSD customer – stated that when he attended the CSDA meeting in November it was noted that a constitutional amendment was made and many public entities will file suit against the State.

There was some Board discussion. Director Eby agreed with Option 1 in the Board letter. Upon motion of Director Eby and seconded by Director Vierheilig, the Board unanimously approved Option 1 which means that the District will utilize Property Tax Fund cash reserves to fund the shortfall over the next two fiscal years. The Property Tax Fund cash reserves are impacted, however, the District maintains its pledge of Ad Valorem property taxes for any future tax shifts. Future tax shifts will be impacted (limited) by the passage of Proposition 1A. Vote 5-0

President Winn called for a break at 10:10 a.m.

The Board came back into session approx. 10:30 a.m. The recorder was turned back on 10:50 a.m.

E-2) INCORPORATION STUDY

Presentation of draft-final Nipomo incorporation study by Mike Davis of the Davis Group, Inc.

Mr. Mike Davis of the Davis Company presented several slides. (Copies of slides are in the Board packet in the office.) He stated that at this time the incorporation trend is not favorable but the community is ideal for incorporation.

The following members of the public spoke:

Bob Blair, NCSD resident – stated that he encourages the District to go forward. Of all the road fees collected from those building in Nipomo, some does not go to Nipomo.

Bill Morrow, NCSD Blacklake resident – stated that we should be planning for growth. He stated that he is for incorporation to plan for the future.

Gale Gascho, NCSD resident – stated that he is against incorporation.

The Board agreed with incorporation. Director Vierheilig stated that the community needs to get together and create a vision for the community.

Upon motion of Director Vierheilig and seconded by Director Eby, the Board instructed Mr. Davis to modify the report to include AB 2115 considerations and the Board agreed to receive and file the draft final report. Vote 5-0 President Winn thanked Mr. Davis for his report.

E-3) HERMRECK WELL CHANGE ORDER

Board consider contract change order to increase well casing diameter

Michael LeBrun, District General Manager, reviewed some of the information presented in the Board letter concerning a change order to increase the well casing diameter during the reconstruction of the Hermreck Well.

The following members of the public spoke:

Homer Fox, NCSD resident – asked why the eight inch system would need a 14 inch casing.

Answer: It would allow for a larger pump if needed without having to drill another well.

Upon motion of Director Trotter the Board and seconded by Director Wirsing, the Board unanimously approved the change order to \$26,000. Vote 5-0

Director Eby made a motion that the funds for this change order not be taken from the Certificates of Participation.

Lisa Bognuda, District Assistant Administrator – stated that the original project was planned to be taken out of the COP funds. For accounting purposes, it is preferred to be taken from the same fund. Director Eby withdrew his motion.

E-4) ELECTION OF BOARD OFFICERS

In accordance with By-Laws, Directors will elect Board officers for 2005.

Director Trotter stated that President Winn with his service to the community has brought the Board to a new level and he would like him to continue as President for another term.

Director Eby nominated Director Vierheilig for President.

There were no other nominations. There was no public comment. Vote 5-0 to elect Director Vierheilig as President.

Director Vierheilig nominated Director Eby for Vice-President.

Director Trotter nominated Director Wirsing for Vice-President. Director Wirsing thanked Director Trotter but declined the nomination. There was no public comment. Vote 5-0 to elect Director Eby as Vice-President.

Director Vierheilig informed the Board that he would be contacting each member about committee appointments.

F. MANAGER'S REPORT

Michael LeBrun, District General Manager, reviewed the Manager's Report.

There is concern over chronic violation of State mandated sodium and chloride effluent limits at the Blacklake treatment plant. There will be communication with the property owners informing them of this problem.

Investigation into Prop 50 grant money for water resources.

G. COMMITTEE REPORTS

There were no committee reports.

H. DIRECTORS COMMENTS

Director Eby requested to have a supplemental water program on the next agenda. He would like his written request to be a part of the minutes.

Director Wirsing supports Director Eby's suggestion.

Director Trotter suggested a letter to Rayne and Culligan in response to the salt problem in Blacklake.

President Winn appointed Directors Vierheilig and Eby to an ad hoc committee to attend a meeting at Cannon and Assoc. concerning supplemental water.

President Winn stated that he enjoyed chairing the Board.

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Jon Seitz, District Legal Counsel, announced the need to go into Closed Session to discuss the following items. There was no public comment on the items for Closed Session.

CLOSED SESSION 12:40 p.m.

1. CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9
SMVWCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.
2. CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9
MARIA VISTA VS. NCSD CASE NO. CV 040877
3. CONFERENCE WITH LEGAL COUNSEL Initiation of Litigation GC§54956.9(c)
INITIATION OF LITIGATION, ONE CASE. (SUMMIT STATION EIR)

Director Trotter left the Closed Session at 1:44 p.m.

Jon Seitz, District Legal Counsel, reported out of Closed Session.

The Board heard an update on Item 1 above. There was no reportable action.

The Board heard an update on Item 2 above. There was no reportable action.

The Board heard an update on Item 3 above. Upon motion of Director Wirsing and seconded by Director Eby, the Board unanimously decided to instruct District Legal Counsel to initiate litigation regarding the Environmental Impact Report, ordinances and various procedural issues related to the Board of Supervisors' actions approving Summit Station language ordinance amendment.

Vote 4-0

After the Closed Session, the Board returned to Item D-4.

Upon motion of Director Eby and seconded by Director Vierheilig, the Board unanimously approved the attorney's fees agreement with the law firm of Zimmer & Marcus concerning the Summit Station General Plan amendment as amended to include not to exceed costs of \$20,000 through the settlement conference and not to exceed \$60,000 up until an interim report and cost limits can be modified in the future with Board approval.

ADJOURN

President Winn adjourned the meeting at 2:00 p.m.