

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 40 - Years of Service 1965 - 2005

MINUTES

REGULAR MEETING

APRIL 13, 2005 9:00 A. M.

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

LARRY VIERHEILIG, **PRESIDENT**
ED EBY, **VICE PRESIDENT**
MICHAEL WINN, **DIRECTOR**
CLIFFORD TROTTER, **DIRECTOR**
JUDITH WIRSING, **DIRECTOR**

PRINCIPAL STAFF

MICHAEL LEBRUN, **GENERAL MANAGER**
LISA BOGNUDA, **ASSIST. ADMINISTRATOR**
DONNA JOHNSON, **BOARD SECRETARY**
JON SEITZ, **GENERAL COUNSEL**
DAN MIGLIAZZO, **UTILITY SUPERVISOR**

Mission Statement: 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.

A. CALL TO ORDER AND FLAG SALUTE

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

B. ROLL CALL

At Roll Call all Board members were present.

C. PUBLIC COMMENT PERIOD

PUBLIC COMMENT

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

Presentation of sheriff activities in the Nipomo area.

Commander Basti reported that the Neighborhood Watch Program is working:

Two criminal activities were reported by citizens to the Sheriff's station.

Both incidents led to arrests.

Mr. Basti handed the Board an accounting of Sheriff department calls for service for 2003 and 2004. (A copy off the report is in the office copy of the Board packet.)

The number of incidents is higher but the population is also higher.

The Board thanked Commander Basti for his report.

C-2) DAN ANDERSON, CDF BATTALION CHIEF, CALIFORNIA DEPARTMENT OF FORESTRY (CDF) Presentation of CDF activities in the Nipomo area.

CDF Battalion Chief Anderson presented information about the following:

- The time change is the time to change one's smoke detector batteries.
- Mowing grasses before 10:00 a.m. reduces fire danger.
- Some tents at the Swap Meet are being checked for fire retardant material.
- The chipping event is in process this week for the first zone.

The Board thanked Battalion Chief Anderson for his presentation.

D. CONSENT AGENDA

D-1) WARRANTS

D-2) BOARD MEETING MINUTES

March 23, 2005, Regular Board meeting

D-3) GASCHO DETACHMENT, PROPERTY TAX EXCHANGE RESOLUTION

RESOLUTION NO. 2005-929

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES AND ANNUAL TAX INCREMENT BETWEEN THE COUNTY OF SAN LUIS OBISPO AND THE NIPOMO COMMUNITY SERVICES DISTRICT RELATED TO THE GASCHO DETACHMENT

MINUTES

- D-4) NOTICE OF COMPLETION
File Notice of Completion for the Tefft Street Lift Station
- D-5) FENCING MANDI AND CHEYENNE WELL SITES
Approve budget amendment to provide access and security fencing to two well sites. Director Wirsing asked if Maria Vista should be responsible for fencing the wells. Mr. LeBrun stated that it is the District’s responsibility for security to the well-sites.
- D-6) LYN ROAD ANNEXATION EASEMENTS
Approve easements for access and maintenance of improvements associated with Lyn Road annexation project.

RESOLUTION NO. 2005-930
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING THE WATER AND SEWER EASEMENTS FOR THE LYN ROAD ANNEXATION

- D-7) SAFETY MEETING MINUTES
There was no public comment on the Consent Agenda. Upon motion of Director Winn, seconded by Director Eby, the Board unanimously approved the Consent Agenda, as amended in Item C of the Minutes. Vote 5-0

E. ADMINISTRATIVE ITEMS

- E-1) PUBLIC HEARING - FOX APN 090-363-024 & 025
The meeting was open to a Public Hearing. Jon Seitz, District Legal Counsel, explained that a notice will be recorded on each property in order that subsequent owners are aware of the connection charge and that the reimbursement will be honored. There were no protests against the spread for sewer reimbursement fee for Burton Street. Homer Fox, developer, NCSD resident – asked for clarification of the 10-year notice. Mr. Seitz explained the recordation of the notice. Upon motion of Director Winn, seconded by Director Trotter, the Board unanimously approved Resolution 2005-931 and directed staff to file the notice. Vote 5-0

RESOLUTION NO. 2005-931
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT APPROVING THE REIMBURSEMENT AMOUNTS FOR BURTON STREET IMPROVEMENTS (FOX)

- E-2) ENGINEERING SERVICES AGREEMENT AND RESOLUTION
Mr. LeBrun, District Manager, reviewed the proposed resolution establishing General Manager’s authority to direct engineering work. He asked that the amounts on the printed resolution be changed. The Board discussed the amounts and agreed the amounts should be higher. Jon Seitz, District Legal Counsel, reviewed the agreement and noted there would be minor changes. There was no public comment. Upon motion of Director Winn and seconded by Director Eby, the Board unanimously approved Resolution 2005-932, as amended. Vote 5-0

RESOLUTION NO. 2005- 932
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ESTABLISHING THE POLICIES AND PROCEDURES FOR EXECUTING TASK ORDERS AND EMERGENCY CONTRACTS FOR ENGINEERING SERVICES

MINUTES

E-3) JOINT USE OF EXCESS CAPACITY OF DISTRICT WATER CONVEYANCE FACILITIES

Jon Seitz, District Legal Counsel, reviewed the proposed ordinance. He conveyed that the Nipomo Sub-Area would be changed to the Nipomo Hydrologic Sub-Area. Board discussion ensued. There was no public comment.

Upon motion of Director Winn and seconded by Director Eby, the Board unanimously agreed to have the Ordinance read in title only. Vote 5-0.

Upon motion of Director Eby and seconded by Director Wirsing, the Board tentatively approved the First Reading of the Ordinance governing the transfer of water through District facilities and set the meeting of April 27, 2005, for the second reading and final approval. Vote 5-0.

ORDINANCE NO. _____
 AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT AMENDING
 TITLE 3 OF THE NIPOMO COMMUNITY SERVICE DISTRICT TO ADOPT
 REGULATIONS RELATING TO THE USE OF DISTRICT WATER CONVEYANCE
 FACILITIES TO TRANSFER WATER PURSUANT TO §§ 1810 ET. SEQ. OF THE
 CALIFORNIA WATER CODE

President Vierheilg asked that Item E-7 be considered before the service requests.

The Board took a break at 10:20 a.m. and came back into session at 10:30 a.m.

E-7) MID-WATER YEAR REVIEW OF ALLOCATION ORDINANCE

The Board agreed to move this item forward on the agenda.

Michael LeBrun, District Manager, reviewed the amounts of water allocations (adopted by Ordinance 2004-100 in October 2004) over each category for the past six months. He recommended that there be no changes in the allocations at this time.

The Board discussed the allocations. Directors Eby and Trotter commented that the allocation is sending the wrong message to the San Luis Obispo County Board of Supervisors concerning the Level III Severity in allocating service. Director Trotter suggests that the District accelerate the process of obtaining the supplemental water supply.

Directors Wirsing and Eby would like to table all activity until the Board of Supervisors hears and moves on the subject of the Level III Severity.

There was no public comment.

Director Winn made a motion to commend Staff for the report and accept it into file. Director Trotter seconded the motion. Vote 3-2 with Directors Wirsing and Eby voting no.

E-4) SERVICE REQUEST – APNs 092-083-009 AND 092-083-010

John Knight from RRM Design discussed the proposed project with the Board and asked for Board support for water and sewer service (Intent to Serve Letter) to a 32-unit development at 160 and 170 San Antonio Lane pursuant to District's water allocation Ordinance. There will be a neighborhood meeting about the proposed project on April 18, 2005.

Mr. Seitz, District Counsel, asked the applicant if they agree to pay the capacity fees as mentioned in the new ordinance. Mr. Knight agreed.

Upon motion of Director Wirsing and seconded by Director Eby, the Board agreed to table this item until it is brought back with the proper language in Bullet #3 of the Board letter and following the County Board of Supervisors' decision on the Level of Severity III. Vote 3-2 with Director Winn and President Vierheilg voting no.

MINUTES**E-5) SERVICE REQUEST – APN 092-130-019**

The Board discussed the request for water and sewer service (Intent to Serve Letter) to a 42-unit subdivision at 620 Hill Street pursuant to District's water allocation Ordinance.

The following members of the public spoke:

Terry Orton, Westland Engineering – stated that he thought he was here to agree to the added conditions for the will-serve letter, but now is not sure what the issues are.

James Van Arden, contractor for project – stated that he would like all applicants treated the same but postponing this project puts a hardship because work comes to a stop until the approval.

John Knight from RRM Design –stated that all requests should be treated the same.

Cary Geihs, developer for project – stated that he would like to take a 10-minute break while the manager inserts the correct language so he may get on with his project.

Director Eby made a motion to postpone this item until after the Board of Supervisors decision on the Level of Severity III on May 10th. Director Wirsing seconded the motion. Vote 2-3. Motion failed.

Director Wirsing made a motion to bring item back to the April 27th meeting with the verbiage in the recommendation. Motion failed for a lack of a second.

Director Winn made a motion to have staff make wording changes now and come back to consider. Director Winn dropped the motion.

Denis Sullivan, representative for Cypress Ridge – stated that he plans to ask the San Luis Obispo County Board of Supervisors at the April 19th meeting for a postponement for the Cypress Ridge project or his stated position.

Mr. Seitz asked Mr. Sullivan if he would object to the District writing a letter to the Board of Supervisors concerning his project. Mr. Sullivan said he did not object.

Director Winn made a motion to approve the request for service to APN 092-130-019 with the amended recommendations. Mr. Seitz, District Counsel, asked the applicant if they agree to pay the fees as mentioned in the new ordinance. Mr. Geihs agreed.

Director Vierheilig seconded the motion. Vote 3-2 with Directors Eby and Wirsing voting no.

E-6) SERVICE REQUEST – APN 091-292-001

The Board discussed the request for water service (Intent to Serve Letter) to a 6-unit subdivision of a 6.9 acre parcel on Pomeroy at Hunter Ridge Lane pursuant to District's water allocation Ordinance.

Mr. Seitz, District Counsel, asked Mr. Steve Babcock of SB Planning representing Mr. DeBlauw, if he agrees to pay the fees as mentioned in the new ordinance. He agreed.

Director Winn made a motion to approve the request for service to APN 092-292-001. President Vierheilig seconded the motion. The motion failed with a 2-3 vote with Directors Eby, Trotter, and Wirsing voting no.

Upon motion of Director Eby and seconded by Director Wirsing, the Board agreed to table this item until after May 10th to reconsider based on the Board of Supervisors decision on the Level of Severity III on May 10th. Vote 3-2 with Director Winn and President Vierheilig voting no.

E-7) MID-WATER YEAR REVIEW OF ALLOCATION ORDINANCE

Review water allocations; consider revisions/reallocation within specific categories.

This item was considered before Item E-4.

MINUTES

E-8) STUDENT INTERN

Consider staff proposal to hire a summer student intern.

Upon motion of Director Winn and seconded by Director Wirsing, the Board unanimously agreed to bring this item back to the April 27th meeting. Vote 5-0

E-9) CYPRESS RIDGE EXPANSION

Review County Board of Supervisor's consideration of a proposal to expand Cypress Ridge golf development

Upon motion of Director Winn and seconded by Director Wirsing, the Board unanimously agreed to bring this item back prior to the County considering applicants revised project. Vote 5-0

THE FOLLOWING ITEM WILL BEGIN AT 1:00 P.M.

E-10) WATER AND SEWER RATE ORDINANCES AND RESOLUTIONS

District Water and Sewer Rate Consultant, Mr. Robert Reed of The Reed Group, presented a review of the proposed rate structures for water and sewer bi-monthly rates and capacity charges for new connections. He showed a slide presentation.

Upon motion of Director Winn and seconded by Director Trotter, the Board agreed to receive and file the report as presented by Mr. Reed. There was no public comment. Vote 5-0.

The Board discussed the proposed ordinance adopting revised rate structure/capacity charges. There was no public comment. Upon motion of Director Winn and seconded by Director Eby, the Board agreed to have the proposed rate ordinance read in title only. Voice vote 5-0. Mr. Jon Seitz, District Legal Counsel, read the title of the proposed ordinance.

Upon motion of Director Winn and seconded by Director Trotter, the Board unanimously approved the First Reading of the rate ordinance and set a Public Hearing for adoption to June 8, 2005. There was no public comment. Roll call vote 5-0

**ORDINANCE NO. 2005-BI-MONTHLY RATES AND CHARGES
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AMENDING TITLE 3 AND TITLE 4 OF THE NIPOMO COMMUNITY SERVICES DISTRICT CODE TO ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE FOR THE TOWN DIVISION AND BLACKLAKE DIVISION AND TO REVISE VARIOUS DISTRICT CODE SECTIONS RELATED TO WATER AND SEWER SERVICE**

Upon motion of Director Winn and seconded by Director Trotter, the Board agreed to have the proposed capacity ordinance read in title only. Voice vote 5-0. Mr. Jon Seitz, District Legal Counsel, read the title of the proposed ordinance.

Upon motion of Director Winn and seconded by Director Trotter, the Board unanimously approved the First Reading of the capacity ordinance and set a Public Hearing for adoption to April 27, 2005. There was no public comment. Roll call vote 5-0

**ORDINANCE NO. 2005-CAPACITY CHARGES
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AMENDING TITLE 3 AND TITLE 4 OF THE NIPOMO COMMUNITY SERVICES DISTRICT CODE TO ESTABLISH WATER AND SEWER CAPACITY CHARGES AND TO REVISE DISTRICT CODE SECTIONS TO FACILITATE IMPLEMENTING SAID WATER AND SEWER CAPACITY CHARGES**

MINUTES

E-11) FEE PAYMENT POLICY

The Board discussed the proposed resolution clarifying the payment of District fees. There was no public comment.

Upon motion of Director Winn and seconded by Director Wirsing, the Board unanimously approved Resolution 2005-933 amending the fee collection procedures. Roll call vote 5-0.

RESOLUTION NO. 2005-933
A RESOLUTION OF THE NIPOMO COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS
AMENDING THE DISTRICT'S WILL SERVE POLICY AND ESTABLISHING A DATE FOR
CREDITING DISTRICT CAPACITY CHARGES TO PROJECTS

F. MANAGER'S REPORT

Michael LeBrun, District General Manager reviewed the report in the Board packet. There was no public comment.

G. COMMITTEE REPORTS

Director Winn reported that the Annexation Ad Hoc Committee met once. President Vierheilig and Director Trotter reported that the Finance Committee met Monday. President Vierheilig reported that the Supplemental Water Committee met March 28th.

H. DIRECTOR'S COMMENTS

Director Wirsing would like to agendize a review of the allocation ordinance in May. She would like to have an ad hoc committee formed at the next meeting to discuss commercial use.

She also stated that she would like our agenda in the Telegram Tribune Newspaper.

Director Eby stated that he would like more information about a timetable for the supplemental water project.

Director Winn stated that there is 2½ million dollars in Prop 50 money but applying for it may be a full time job and NCSD may want to look seriously into adding staff if it wants to pursue the funds.

Would like to look more closely at the RMS.

SB 610 and 221 – rules have changed about planning.

Calendar

Mon. April 18 RRM presentation on development behind Chevron.

Wed. April 20 North County Task Force

Sat. April 23 Annual Central Coast Greenhouse Assn. 9-3

Fri. April 29 California Special District Assn – suggest alternate to be from full spectrum CSD. Would like to agendize the election topic for the Apr. 27th meeting.

President Vierheilig stated that the Olde Towne trash cans have been ordered

On May 24th San Luis Obispo Board of Supervisors will consider a growth cap.

Mesa Meadows Planting in the park

AB 1259 opposition given to the Board of Supervisors Tuesday.

Conservation Committee needs to move on with educational materials, etc.

On May 4 he will lead an effort concerning Level III Severity.

MINUTES

I. CLOSED SESSION ANNOUNCEMENTS

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

- 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 Pending Litigation GC§54956.9
NCSD vs. COUNTY OF SAN LUIS OBISPO (SUMMIT STATION LAND USE ORDINANCE AND ENVIRONMENTAL IMPACT REPORT)
- 4. CONFERENCE WITH LEGAL COUNSEL TO CONSIDER DAMAGE CLAIM AGAINST DISTRICT
Pending Litigation GC§54956.9. Claimant Blacklake Golf Resort.

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

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

K. ADJOURN TO CLOSED SESSION

President Vierheilg adjourned the meeting to Closed Session at 3:15 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session and announced that the Board heard an update on the above items. Director Trotter left the meeting at 4:00 p.m. With a vote of 4-0 the Board agreed to settle Item #4 above. There was no reportable action on the other items.

ADJOURN

President Vierheilg adjourned the meeting at 4:10 p.m.

➤ THE NEXT REGULAR BOARD MEETING IS APRIL 27, 2005.

SCHEDULED ITEMS INCLUDE:

- PROPOSED SOLID WASTE FEE INCREASE
- BLACKLAKE TREATMENT POND LINER BID AUTHORIZATION