

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 40 - Years of Service 1965 - 2005*

## MINUTES

REGULAR MEETING

APRIL 27, 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 BOGNUA, **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, the following directors were present: Director Vierheilig, Director Eby, Director Winn and Director Wirsing.  
Director Trotter was absent.

#### C. PUBLIC COMMENT PERIOD PUBLIC COMMENT

Homer Fox, NCSD resident- Had a question about what he read in the paper about the mix of supplemental water that will come from Santa Maria.

#### D. CONSENT AGENDA

D-1) WARRANTS [RECOMMEND APPROVAL]

D-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]

D-3) THIRD QUARTER FINANCIAL STATEMENTS AND CERTIFICATES OF PARTICIPATION REPORT [RECEIVE AND FILE]

D-4) INVESTMENT POLICY - FIRST QUARTER REPORT [RECEIVE AND FILE]

D-5) RESOLUTION INITIATING PROCEEDINGS FOR ANNUAL LEVY OF ASSESSMENTS FOR THE LANDSCAPE MAINTENANCE DISTRICT NO.1 [RECOMMEND APPROVAL]

Homer Fox, NCSD resident - asked if the 0.10% earnings on the Money Market account was correct or was it a typographical error.

Upon the motion of Director Winn, seconded by Director Wirsing, the Board unanimously approved the Consent Agenda, as amended in Item H of the Minutes. Vote 4-0

**RESOLUTION 2005-934**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT INITIATING PROCEEDINGS FOR ANNUAL  
LEVY OF ASSESSMENTS FOR THE LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR  
FISCAL YEAR 2005-2006 PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15  
OF THE CALIFORNIA STREETS AND HIGHWAYS CODE**

#### E. ADMINISTRATIVE ITEMS

The Board agreed to hear Item E-8 out of order.

**MINUTES****E-8) HERMRECK WELL UPDATE**

Tim Cleath, Certified Hydrogeologist of Cleath & Associates presented his findings on the Hermreck Well to the Board. He stated that the quality and quantity of water is not what the District would look for in a municipal well. He stated that there are two zones in the well-one at 1480-1520 feet and one at 770-1250 feet. The zone at 400 feet was sealed so that there would be no interference with other wells in the area. Director Winn asked about slanted stratas and would we be confident that it wouldn't affect other wells. Mr. Cleath stated that the ag wells run parallel to Thompson. Director Eby asked if this well is indicative of other wells in the Nipomo valley. Mr. Cleath stated there are no other deep wells to compare to. Mr. Cleath recommended the following: 1) Hire an expert to review the electric log (cost approx \$1,500) 2) seal off the bottom zone to keep the zones separate (cost approx \$2,000) 3) test the upper zone for quality and quantity. Director Wirsing asked if the total cost would be approximately \$5,000. Mr. Cleath suggested the Board consider \$10,000 since deep wells are difficult.

Homer Fox, NCSD resident – Stated that as a rate payer, he would not be upset if NCSD sealed the lower zone and tried to develop the upper zone. However, he would like to know why a water sample was not taken prior to casing the well.

Mr. Cleath explained the well-drilling process and limitations on sampling.

Upon the motion of Director Winn, seconded by Director Wirsing, the Board unanimously agreed to receive the Cleath and Associates report and instruct staff to take the following three steps of 1) hire expert to review electric log 2) seal lower zone and 3) sample the upper zone without further development of the well. Vote 4-0

**E-1) SOLID WASTE FRANCHISE INTERIM RATE INCREASE**

Mr. LeBrun, District Manager, reviewed the proposed rate increase and discussed the three options presented in the staff report which include mandatory, non mandatory or mandatory with a one time contribution from NCSD to help offset cost of the waste wheelers. Mr. Tom Martin, representative from Nipomo Garbage Company, defined bundled service as three waste wheelers that include one for garbage, one for recycling and one for green waste. Next year, bundled service will be mandatory due to worker's compensation claims. The rate for bundled service will be dependent on the size of garbage can the customer requests and not the size of the recycling or green waste can. Mr Martin also stated that the green waste is taken to the landfill and composted there and that green waste counts for the AB-939 waste reduction laws. Director Wirsing asked about garbage service in other areas on Nipomo outside of NCSD boundary. Mr. Martin stated that garbage service is not mandatory, however, SLO County has indicated that if NCSD goes mandatory, they will seriously look at following our lead. Director Winn also stated that there is a lot of dumping off the edge of the bluff and the County is looking into it. Director Wirsing asked why Oceano CSD has lower rates than NCSD. Mr. Martin stated that OCSD shifted a larger portion of the rate increase to commercial and away from residential.

There was no public comment on this item.

Upon the motion of Director Eby, seconded by Director Winn, the Board agreed to adopt Staff's recommendation of Option 1, which includes annual rate adjustment, mandatory collection, waste wheeler service and a one-time \$50,000.00 payment from NCSD to the Garbage Company. Vote 3-1, with Director Wirsing voting no.

MINUTES

E-2) PUBLIC HEARING

ADOPTION OF ORDINANCE ESTABLISHING NEW WATER AND SEWER CAPACITY CHARGES FOR NEW CONNECTIONS WITHIN THE BLACKLAKE AND TOWN DIVISIONS INCLUDING CAPACITY CHARGES FOR SUPPLEMENTAL WATER

District Legal Counsel, Jon Seitz, stated that NCSD hired rate consultant Robert Reed. Mr. Reed presented five public workshops and submitted his report to the Board of Directors on April 13, 2005. This report has been available for public review and was posted on the district web site. The notices were also published in The Tribune and the Times Press Recorder. The ordinance will go into effect 60 days after adoption due to AB 1600. The Public Hearing was opened.

Greg Nester, representative from the Home Builders Association –stated he is not here to deny NCSD’s ambition to pay for supplemental water. He believes a quick education is mitigating the financial concerns of the development community.

Director Eby asked if a separate fund will be set up once we start collection fees. The answer is yes and required by AB 1600. Director Wirsing asked if the public notices were in the public notice section or a display ad. They were published in the public notice section, however, there were various articles written in the newspaper about this. At the Introduction of the Ordinance at the previous meeting, the Board agreed to have the Ordinance read in title only. Upon motion of Director Winn, seconded by Director Eby, the Board unanimously adopted Ordinance 2005-101 with a correction to Section 18. Vote 4-0

**ORDINANCE 2005-101  
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**

The Board took a break at 10:18 a.m. and came back into session at 10:25 a.m.

E-3) BLACKLAKE TREATMENT PLANT POND LINER PROJECT

Request bids to replace liner in Blacklake treatment pond #1

Mr. LeBrun, District Manager, explained the need to replace the pond liner at Blacklake. The Engineer has included several bid options which will give NCSD the flexibility to decide on the final project after bids are received. Also, included in the engineer’s estimate is wet sludge removal. Director Eby asked what we do if we can’t afford the project. The options in the bidding give us flexibility to remove items. Also, the Blacklake Sewer Fund could borrow from another fund or the bids could be rejected and the project re-bid in the future. There was no public comment on this item. Upon motion of Director Winn, seconded by Director Wirsing, the Board unanimously agreed to authorize Staff to request bids. Vote 4-0

**MINUTES****E-4) SUMMER INTERNSHIP**

Approval of Summer Internship with Nipomo Community Services District

Mr. LeBrun, District Manager, presented to the Board the concept of hiring a summer intern to assist with the implementation of a Preventative Maintenance and Scheduling Program. Director Wirsing asked about the Social Security costs and if a drug test would be required. Director Eby asked about the job requirement of proficiency in Microsoft products and GIS. Director Winn suggested that job requirement be completion of two years of college. There was no public comment on this item. Upon motion of Director Eby, seconded by Director Wirsing, the Board unanimously agreed to hire a summer intern and allow the general manager to make the final recommendation. Vote 4-0

**E-5) COMMERCIAL SERVICE ALLOCATION**

Form Ad-Hoc committee to consider/develop Commercial Service Allocation system

At the April 13, 2005, Board Meeting, the Board directed staff to place this item on the agenda. Jon Seitz, District Legal Counsel, reminded the Board that the Ad Hoc Committee should look at commercial allocations in the context of District services (water, wastewater, solid waste) only and no other issues even though there may be a nexus. Director Winn stated that he supports this Ad Hoc Committee now even though he was against it in the past. Director Eby asked if it is known what other cities/districts do. Director Wirsing stated that most commercial use is unknown except for ones like motels. There was no public comment on this item. Upon motion of Director Winn, seconded by Director Wirsing, the board unanimously approved the formation of an Ad Hoc Committee to consider/develop commercial service allocation system. Vote 4-0. President Vierheilg stated he will defer appointment to this committee until there is a full Board present.

**E-6) VISION RETREAT**

Discuss scheduling and content of a Board retreat, provide staff direction.

The Board of Directors discussed the possibilities of a retreat. Mr. Eby asked about the desired outcome. Director Vierheilg stated that the outcome should be an overall vision of the District in the future-a road map. Director Winn would rather meet with the General Manager than a facilitator. There was no public comment on this item. It was recommended that the District do not hire a facilitator and that goal-setting workshops be held in the future or place these items on a short agenda. This item was continued.

**E-7) CALIFORNIA SPECIAL DISTRICT ASSOCIATION, SAN LUIS OBISPO COUNTY CHAPTER, ELECTIONS**

Recommendations for appointment of Special District representatives to LAFCO

Director Vierheilg asked for direction on how to vote on Friday evening. It is anticipated that the Director from Los Osos CSD will run for the seat which will leave the alternate seat vacant. Director Winn stated that he would like to be considered for the alternate seat if the Director from Los Osos CSD is elected as Commissioner. There was no public comment on this item. The direction given to Director Vierheilg was to support the Director from Los Osos CSD for Commissioner and Director Winn for alternate and to support Director Winn for Commissioner if the Director from Los Osos CSD declines to run.

**E-8) HERMRECK WELL UPDATE**

This item was taken out of order and heard first.

## MINUTES

- E-9) JOINT USE OF EXCESS CAPACITY OF DISTRICT WATER CONVEYANCE FACILITIES  
Second reading and adoption of an Ordinance governing the transfer of water through District facilities.

Jon Seitz, District Legal Counsel, stated that the corrections made to the Ordinance at the first reading did not make it into the packet. Mr. Seitz read the corrections to Exhibit A into the record. Change the name from Nipomo Sub-Area to Nipomo Hydrologic Sub-Area, and add 3.30.20 (B which states: The District will only consider transfers of Supplemental Water during the period of time that the District Conveyance Facilities have unused capacity. There was no public comments on this item. At the introduction of the Ordinance, the Board agreed to have the Ordinance read in title only. Upon motion of Director Winn, seconded by Director Eby, the Board unanimously approved Ordinance 2005-102. Vote 4-0

**ORDINANCE 2005-102  
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**

The Board took a break at 11:50 a.m. and came back into session at 12:00 p.m.

F. MANAGER'S REPORT

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

G. COMMITTEE REPORTS

Annexation Sub Committee set Wednesday, May 4 at 8:00 a.m. to meet.  
UWMP Sub Committee set Friday, May 6 at 3:00 p.m. to meet.

A Study Session to review the budget was set for Friday, May 13 at 9:00 a.m.

Director Wirsing stated that she would be giving conservation scenarios to Director Winn for critique.

There was no public comment on this item.

H. DIRECTOR'S COMMENTS

Director Winn stated that WRAC will meet May 4 at 1:30 p.m. to discuss Level III severity. He would like the GM or Legal Counsel to make a presentation.

He also stated he met with a group called Committee INC (Improve North County). They are interested in Nipomo development.

Director Eby stated that the NCAC voted 9-3 to support Level III severity. He made a presentation and offered its use to Mr. LeBrun.

Dana Adobe Heritage Days are set for May 21-He has tickets for sale.

He stated his concerns about our water planning

Director Wirsing wanted to thank The Tribune for publishing our agenda.

**MINUTES**

Director Vierheilig stated that the legal counsel evaluation will be conducted in May or June. He doesn't have a written evaluation form so it will be a verbal evaluation.

He stated that the NCAC Sub-Committee will be meeting with Crystal Oaks on May 3 from 9-2 at RRM.

He stated that he and Director Eby will be meeting with the Board of Supervisors on May 2 and 4 to discuss the Level III severity.

**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 Anticipated Litigation GC§54956.9  
Significant exposure to litigation (one case)

**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**

The Board adjourned the meeting to Closed Session at 12:40 p.m.

**L. OPEN SESSION**

There was no reportable action. Director Winn left the meeting at 1:07 p.m.

**ADJOURN**

President Vierheilig adjourned the meeting at 1:17 p.m.