

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 40 - Years of Service 1965 - 2005

MINUTES

JANUARY 25, 2006 9:00 A. M.

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

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

- 00:00:00 A. CALL TO ORDER AND FLAG SALUTE
President Vierheilig called the meeting to order at 9:00 a.m. and led the flag salute.
- 00:00:50 B. ROLL CALL
At Roll Call, all Board members were present.
- 00:01:10 C. PUBLIC COMMENT PERIOD
PUBLIC COMMENT
The following members of the public spoke:
Tom Martin, South County Sanitary Manager – reported the following:
- Page 564 of the Yellow Pages has a cardboard fold-out with information on recycling and composting.
 - Garbage bills can now be paid on line at wasteconnections.com
 - Mandatory trash service has progressed well – 65 new starts
 - Clean-Up Week April 10-14 for residential customers
- 00:04:29 D. CONSENT AGENDA
- D-1) WARRANTS [RECOMMEND APPROVAL]
- D-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]
Regular meeting January 11, 2006
- D-3) CROSS-CONNECTION INSPECTION SERVICES CONTRACT
[RECOMMEND APPROVAL]
- D-4) LETTER OPPOSING AB 737 [RECOMMEND APPROVAL]
- Item D-3) - Director Eby asked about the indemnification clause in the Cross Connection Inspection Services Contract. Jon Seitz, District Legal Counsel, explained. There were some spelling errors corrected in the Minutes.
There was no public comment.
Upon motion of Director Winn and seconded by Director Eby, the Board unanimously approved the Consent Agenda, as amended. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Wirsing, Trotter, and Vierheilig	None	None

Nipomo Community Services District
REGULAR MEETING
MINUTES

00:12:30

E. ADMINISTRATIVE ITEMS

E-1) PUBLIC HEARING--ADOPTION URBAN WATER MANAGEMENT PLAN 2005 UPDATE

Michael LeBrun, District General Manager – reviewed the steps taken up to this date in updating the Urban Water Management Plan. The District has met and exceeded the public notification requirements. The comments received have been outlined in the staff report.

Meredith Clement presented slides which indicated some changes in the draft Urban Water Management Plan 2005 update.

The following members of the public spoke:

Jerry Bunin, Government Affairs Director for the Home Builders Association – asked that the data used to estimate water conservation efforts be made available to the public.

Board discussion ensued. The Board made some suggestions for minor changes.

RESOLUTION NO. 2006-963
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTION BY THE NIPOMO COMMUNITY SERVICES DISTRICT OF
ITS URBAN WATER MANAGEMENT PLAN 2005 UPDATE

Upon motion of Director Winn and seconded by Director Trotter, the Board approved Resolution 2006-963 adopting the Urban Water Management Plan 2005 Update and directed staff to finalize and file the approved document consistent with the California Urban Water Management Planning Act. Vote 4-1 with Director Eby abstaining.

YES VOTES	NO VOTES	ABSTAIN	ABSENT
Directors Winn, Trotter, Wirsing, Vierheilig	None	Director Eby	None

01:01:30

E-2) HOLLOWAY ANNEXATION AGREEMENT

The Board discussed an agreement to annex approximately 20 acres of land, located within the NCS D Sphere of Influence for water and sewer services. The property is located on South Oakglen Avenue and is also known as Tract 2642.

Carl Holloway, annexation applicant, spoke to the Board concerning his project. He handed a document to the Board that he had prepared for LAFCo comparing the amount of water pumped from the well on his property to the trees he watered for his business with the amount of water projected to be used for the 18-unit residential development within the area proposed to be annexed. There was much Board discussion. There was no public comment.

Upon motion of Director Trotter and seconded by Director Winn, the Board approved the Annexation Agreement. Vote 3-2

YES VOTES	NO VOTES	ABSENT
Directors Trotter, Winn, and Vierheilig	Directors Wirsing and Eby	None

01:35:23

E-3) CONTRACT APPROVAL

The Board considered approval of a two (2) year contract with Bruce Buel for the position of Projects Assistant to the Manager.

The following members of the public spoke:

Richard Margetson, resident of Los Osos – cited several items of discontent with Mr. Buel while Mr. Buel was working as General Manager at Los Osos CSD. He noted some recommendations Mr. Buel made to the LOCSD Board that were not good.

Keith Swanson, resident of Los Osos – cited several complaints he had about actions of Mr. Buel during his management at Los Osos CSD.

Chris Allebe, resident of Los Osos – stated his concerns that this District might hire Mr. Buel. He cited several incidents that he felt were unacceptable. He urged the Board to do more investigation before hiring Mr. Buel.

Director Wirsing read a statement to the Board and staff and asked that her statement, as well as answers to her questions, be put on the record. The statement is attached to these Minutes.

Mr. Seitz and Mr. LeBrun answered Director Wirsing's concerns.

#7 – Mr. Seitz stated that he does not represent Mr. LeBrun; he represents the Board – not the General Manager. The term of the contract was reached by this Board and staff without Mr. Seitz' input. Mr. Seitz had this contract independently reviewed to make sure NCSD was protected.

#1 – Mr. LeBrun stated that the job description is broad. There are other areas of this District which can use Mr. Buel's expertise beyond the Projects Manager.

#6 – Mr. Seitz explained that each District is obligated to defend its employees.

#7 paragraph 2 Mr. LeBrun stated that this was discussed with the Board, explaining that Mr. Buel signed before the issue came to the Board to show that it will not be renegotiated after the Board meeting.

#6 – What is the hurry? Mr. LeBrun stated that there are projects this District needs to be working more aggressively toward. The termination clause in the contract is such that Mr. Buel can be let go very easily, if the Board desires his termination.

#5 – NCSD commitment to pay toward Mr. Buel's 30-year retirement would be 1/15th or 2/30th for the two years employed at this District. There is a benefit to Mr. Buel for working toward his retirement.

Director Eby stated that time is of an essence with the supplemental water project. There needs to be *someone* to get the project moving. The process for termination is simple if the Board or Mr. LeBrun sees that termination is necessary.

Upon motion of Director Winn and seconded by Director Trotter, the Board approved the contract and directed staff to complete the hiring process. Vote 3-2

YES VOTES	NO VOTES	ABSENT
Directors Winn, Trotter, Eby	Directors Wirsing and Vierheilig	None

The Board took a break at 11:45 a.m. and reconvened at 12:00 p.m.

What is in the best interest of our District?

1. The job description is too broad. This overlaps with current staff job duties and the new position of conservation manager.
2. As per our conversations the main job description is the Santa Maria Supplemental Water Project, the other job descriptions are minor and it is my opinion this does not justify hiring an assistant General Manager.
3. What was the plan for overseeing the Santa Maria Supplemental Water Project before Mr. Buel became available? Are you saying there were none?
4. The Supplemental Water Inter-tie pipeline, participation in the selection of design and construction bid documentation preparation; CEQA process, exploring grant funding, etc. is a 4-5 year project, I'm asking why would we only contract for 2 years for a 4-5 year project? I believe this is not in the best interest of our District due to the fact that this is poor planning and simply doesn't make sense and is risking the investment in the hiring of a person for \$226,000 for 2 years when it is clearly a 4-5 year project and there is no guarantee that Mr. Buel would remain in employment.
5. Another question: after the 2 years I need to know the exact cost of Mr. Buel's retirement costs to this District, or are we saying there are none?

I also need to know what the hurry is in hiring Mr. Buel? Mr. Buel is under potential criminal liability, the SLO Deputy District Attorney said his office would conduct a preliminary inquiry this month to determine if a full investigation is required.

There are too many unknown's with this stressful investigation and possible criminal liability that would distract Mr. Buel from doing his job for this District. This is clearly not in the best interest of this District. Mr. Buel could be away for days at a time in preparation for this investigation, this is why I ask again "what is the hurry?" Mr. Buel is currently receiving \$94,000 from the Los Oso CSD to carry him over. It is definitely not that Mr. Buel is going to go without a paycheck anytime soon. **See Contract: Sec. 12 #B, Pg 6 of 7*

7. Mr. Seitz is legal council to Mr. LeBrun and he was also legal council to Mr. Buel, they worked very closely for approx. 7 years, what my thoughts are at this time is very serious and it is my opinion that Mr. Buel's contract has been purposely crafted to accommodate his hiring into our District. I believe this 2 year contract for a 4-5 year project is a bridge to allow Mr. Buel to collect his full retirement, as we were told Mr. Buel currently will only be able to collect \$65,000 a year if he retired now. ~~The~~ employment would add 2 years to his 28 years of governmental service to allow Mr. Buel to retire with his full 30 year retirement plan at the expense of Nipomo CSD and its ratepayers.

This

I cannot support this at this time. I'm also disturbed that Mr. Buel has already signed his contract while out of the country on vacation. I ask again what is the hurry?

Joanna

Judith Worsing

02:42:34

E-4) INVESTMENT POLICY - FOURTH QUARTER REPORT

Mr. LeBrun presented the Fourth Quarter Report – District Investment Policy. There was no public comment.

Upon motion of Director Winn and seconded by Director Eby, the Board agreed to accept and file the Fourth Quarter Report – District Investment Policy. Vote 5-0

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Wirsing, Trotter and Vierheilig	None	None

02:46:39

E-5) DISTRICT INVESTMENT POLICY 2006

Mr. LeBrun presented the current year 2006 District Investment Policy. There was no public comment.

Upon motion of Director Winn and seconded by Director Eby, the Board approved Resolution 2006-964 adopting the 2006 District Investment Policy. Vote 5-0.

**RESOLUTION NO. 2006-964
 A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
 NIPOMO COMMUNITY SERVICES DISTRICT
 ADOPTING THE YEAR 2006 DISTRICT INVESTMENT POLICY**

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Wirsing, Trotter and Vierheilig	None	None

00:04:29

E-6) SECOND QUARTER FINANCIAL STATEMENTS

Mr. LeBrun presented the Second Quarter Financial Statements.

Lisa Bognuda, Assistant Administrator, answered questions from the Board.

There was no public comment. Upon motion of Director Winn and seconded by Director Eby, the Board agreed to accept and file the quarterly financial report for the second quarter of fiscal year 2005-2006. Vote 5-0

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Wirsing, Trotter and Vierheilig	None	None

03:10:00

F. MANAGER'S REPORT

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

He plans to meet with Supervisor Achadjian February 1st concerning Flood Control in the Nipomo area.

Dana Elementary School is now receiving District water and is in planning to connect to the District sewer system.

There was no public comment.

03:20:27 G. COMMITTEE REPORTS

Director Eby stated that at the NCAC meeting, January 23, 2006, he gave a brief overview of NCSD activities.

00:04:29 H. DIRECTOR'S COMMENTS

Director Wirsing – thanked staff for taking care of the light at Willow. She asked about the trash can on Tefft Street with the name Ace on it.

Director Winn

- Article in SLO Tribune about Ron Munds, City of San Luis Obispo, Water Conservation Officer. The article shows that they have been able to save 20-30%.
- Went to UCLA classes Friday, January 20, 2006. Materials will be distributed to the Board later.
 - Land Use and Planning information very useful.
 - Conflict of interest laws
 - Eminent domain
 - Mediating CEQA disputes
 - Legislation about fees for housing
- February 1, Wednesday – WRAC meeting
 - Commended Director Eby (alternate member to WRAC) for regular attendance
 - Would like to have letter sent to Board of Supervisors indicating the continuance of the representative and alternate to WRAC.

Director Vierheilig

- Safe Drinking Water Act book available from AWWA
- CSDA News
- Review of NCSD Board By-Laws in February

00:04:29 I. CLOSED SESSION ANNOUNCEMENTS

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

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 Pending Litigation GC§54956.9
CITIZENS AGAINST UNLAWFUL FEES vs. NCSD CASE NO. CV 050920

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J. PUBLIC COMMENT ON CLOSED SESSION ITEMS
There was no public comment on the Closed Session items.

03:35:50 K. ADJOURN TO CLOSED SESSION
The Board adjourned to Closed Session at 12:36 p.m.

03:35:59 L. OPEN SESSION
ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION
The Board came back into Open Session: Jon Seitz, District Legal Counsel, announced that the Board heard an update on the items above and had no reportable action.

03:36:31 ADJOURN
President Vierheilig adjourned the meeting at 1:10 a.m.

➤ **THE NEXT REGULAR BOARD MEETING IS FEBRUARY 8, 2006.**