

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 41 - Years of Service 1965 - 2006

MINUTES

MAY 24, 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

EDWARD KREINS, **INTERIM GEN. MANAGER**
LISA BOGNUDA, **ASSIST. ADMINISTRATOR**
DONNA JOHNSON, **BOARD SECRETARY**
JON SEITZ, **GENERAL COUNSEL**
BRUCE BUEL, **PROJECTS ASSISTANT**

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.

00:00:33

B. ROLL CALL

At Roll Call, all Board members were present.

00:00:50

C. PUBLIC COMMENT PERIOD

PUBLIC COMMENT

President Vierheilig recognized audience members George Billinger and Bill Nelson from Blacklake Village, and Mark Wampler from Oceano with his video camera to record the meeting.

Judith Wirsing, NCS D customer and Director on NCS D Board of Directors – made a statement that she will not step down from this [NCS D] Board. She stated that she will fight and not stop her campaign for 4th District Supervisor. The newspaper that illegally released a sealed confidential document would not allow paid for rebuttal space. It seems they have influenced a rival paper to not allow her paid rebuttal to be printed again. She stated that she had been threatened by the newspaper that released the document. She stated that this is a travesty in democracy and freedom of speech in this country.

Mark Wampler, Oceano resident – stated that in Oceano meetings are held in the evening and perhaps Nipomo should consider holding their meetings in the evening.

Joy Evans, Nipomo resident – asked the Board to consider sending out ballots again about times to hold the NCS D Board meetings. She stated that she is behind Director Wirsing and does not wish to see Ms. Wirsing resign from the NCS D Board.

00:06:39

D. CONSENT AGENDA

Interim General Manager, Ed Kreins announced that there was one correction in D-5.

The CO # should have been 04-0342 rather than 04-0345.

Director Wirsing asked to have Item D-4 pulled for separate consideration.

D-1) WARRANTS

D-2) BOARD MEETING MINUTES

Approve minutes of May 8, 2006, Special meeting.

Approve minutes of May 10, 2006, Regular meeting.

D-3) CONSOLIDATION OF NOVEMBER ELECTION

RESOLUTION NO. 2006-979

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN LUIS OBISPO TO CONSOLIDATE A GENERAL DISTRICT ELECTION TO BE HELD ON NOVEMBER 7, 2006, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE PURSUANT TO SECTION 10403 OF THE ELECTION CODE

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D. CONSENT AGENDA (CONTINUED)

D-5) ACCEPT EASEMENT OFFER OF DEDICATION Newdoll Construction, CO 04-0342

RESOLUTION NO. 2006-980
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE SEWER EASEMENT FOR CO-04-0342 (Story Street Estates)

Upon motion of Director Eby and seconded by Director Winn, the Board unanimously approved Items D-1, D-2, D-3, and D-5, as amended in the Minutes. (Lt. Neumann rather than Lt. Commander Neumann, additional information about abandoned vehicles, and removal of future Board meeting items.) Vote 5-0.

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

00:11:20

D-4) STREET SWEEPING BID AWARD

Bruce Buel, Projects Manager reviewed the bids received from two bidders for periodic sweeping of paved streets inside the District. The Board discussed the issues. The County is not willing to give the level of street sweeping that is proposed by this bid. Mr. Buel explained that the proposed contract allows for minor changes in the locations of the sweeping. It might be possible to use the solid waste funds for weed abatement. The District does not presently have authority for weed abatement but may be able to obtain it from LAFCo. The Board directed staff to research the legal aspects of weed abatement.

The following members of the public spoke:

Mark Wampler, Oceano resident – asked about funds spent for the sweeping when some of the County taxes go for sweeping. ANS: The County will continue sweeping on their infrequent schedule and it is possible there may be an overlap of service.

The Board discussed that a portion of the county taxes might be allocated for sweeping. NCSD staff can investigate what portion is used for street sweeping.

Joy Evans, Nipomo resident – stated that she would like to know if a portion of our taxes covers sweeping because if NCSD spends less money on street sweeping, there may be a way to lower the trash bill.

Upon motion of Director Winn and seconded by Director Trotter, the Board unanimously agreed to instruct staff to execute a contract with SP Maintenance Services, the lowest bidder. Vote 5-0

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

E. ADMINISTRATIVE ITEMS

00:35:33

E-1) RECEIVE WATERLINE INTERTIE PROJECT DRAFT EIR

Bruce Buel, Projects Manager, reviewed the receipt of the Draft EIR for the NCSD/Santa Maria Waterline Intertie Project (supplemental water).

Douglas Wood of Douglas Wood Associates discussed the review process.

There was no public comment.

Director Winn made a motion to accept the receipt of the EIR document and to work with the President, staff, and Mr. Wood to set up a time for a public workshop. Director Eby seconded the motion. Vote 5-0.

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

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00:51:29

E-2) WATERLINE INTERTIE PROJECT DESIGN CONSULTANT SELECTION
 Bruce Buel, Projects Manager, reviewed the process of selecting an engineering firm to design NCS D/Santa Maria Waterline Intertie Project (supplemental water).
Mark Wampler, Oceano resident – asked if the proposed waterline will be used for only Santa Maria water supply or is there an agreement for it to be used for other water supplies.
Bruce Buel, Projects Manager answered that the pipeline will be NCS D's and can use it as the District sees fit. This District would assure the City of Santa Maria that any other source of water, such as water added from a desalination plant, would not interrupt the flow dynamics of the water in the City's system.
 Upon motion of Director Eby and seconded by Director Trotter, the Board unanimously agreed to select Boyle Engineering to design the Waterline Intertie Project and direct staff to negotiate a scope of services and budget for the pre-design services described above for consideration by the Board at its June 14, 2006 Meeting. Vote 5-0.

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

The Board took a break at 10:02 a.m. and reconvened at 10:15 a.m.

01:02:06

E-3) AMEND DISTRICT ANNEXATION POLICY
Jon Seitz, District Legal Counsel, reviewed the staff report considering revisions to District's Annexation Policy, as directed at the Special Meeting of May 8, 2006, related to supplemental water and other requirements. He explained that the annexation process is a multi-agency process. The District does not annex property. The Local Agency Formation Commission (LAFCo) is actually the lead agency and the conducting authority. Annexation is a complex two-step process. LAFCo sets up a Sphere of Influence (SOI). Every LAFCo annexation requires an environmental review. The District's SOI was approved by LAFCo in May 2004. If property is within the District's SOI and the property owners have fulfilled all the requirements, it is annexed into the District and able to receive all the benefits and responsibilities of other land within the District. LAFCo established certain conditions before annexations could occur. He also reviewed a letter from Dennis Law of Buttery Law Offices concerning the Craig Annexation.

The following members of the public spoke:

Carl Holloway, Nipomo resident – asked if the changes in the annexation policy would affect their previous annexation agreement.

Jesse Hill, attorney for the Holloway's – spoke about the previous Holloway agreement and the SAIC report from Mr. Beeby concerning sufficient water to serve properties.

Carol Florence, representative for the Craig Family Trust and principal planner for Oasis Associates - thanked Mr. Seitz for introducing the letter from Mr. Law. This is a fairness issue. She asked that if the annexation policy is amended that the Craig Annexation be exempt from the new policy.

There was much Board discussion with the understanding that annexation applications previously approved for processing would be exempted.

Upon motion of Director Eby and seconded by Director Winn, the Board unanimously approved Resolution 2006-981, as amended. Vote 5-0

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

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E-3) AMEND DISTRICT ANNEXATION POLICY (continued)

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2006-981
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING AND RESTATING THE DISTRICT'S ANNEXATION POLICY

02:27:52

E-4) RECEIVE WATERLINE INTERTIE PROJECT FUNDING RECOMMENDATIONS FROM SUPPLEMENTAL WATER PROJECT COMMITTEE

Bruce Buel, Projects Manager, reviewed the recommendations from the Supplemental Water Project Committee (Chairman Eby and member Winn) regarding funding options to construct project and revenue sources to pay project debt service and operations costs. Board discussion ensued.

Upon motion of Director Eby and seconded by Director Winn, the Board unanimously agreed to adopt the recommendations proposed as follows: Vote 5-0

FUNDING OPTIONS:

- Set the Initial Project capital target at \$10 million with the understanding that the target will be adjusted as more information becomes available.
- Dedicate the pipeline portion of already collected Capacity Fees and the pipeline portion of new Capacity Fees, Capacity Fees collected as a result of annexations, and any in-lieu Fees passed through by San Luis Obispo (SLO) County through Mid Point of Construction (estimated to be December 2007) to the project.
- Track pending Proposition 50 Grant Applications and pursue additional grant opportunities as they become available.
- Authorize the creation and submission of a Pre-Application to borrow \$2 million from the California Infrastructure and Economic Development Bank (CIEDB) following Board adoption of the FY05-06 Audit and Direct staff to report on the results.
- Direct staff to expedite negotiations with the Woodlands, Golden State Water Company and Rural Water Company to determine the feasibility of each purveyor paying their respective share of the pipeline capital cost during construction.
- Continue discussions with potential third party contributors to determine their willingness to pre-pay the pipeline portion of Capacity Fees.
- Wait to make determinations on the use of Property Tax Reserves and the issuance of COPs until more information is available.

REVENUE SOURCES TO REPAY DEBT SERVICE STRATEGY:

- Agree to prepare an update to the 2005 Rate Study for the Pipeline portion of the capacity fee once the design team provides a revised capital cost estimate.
- Dedicate the pipeline portion of Capacity Fees, Capacity Fees collected as a result of annexations, and any in-lieu Fees passed through by SLO County collected after Mid Point of Construction (estimated to be December 2007) to the project debt service.
- Wait to make determinations on the use of purveyor contributions, property taxes, and user fees until more information is available.

REVENUE SOURCES TO PAY FOR WATER PURCHASES AND OPERATIONS COST STRATEGY:

- Dedicate the water purchase portion of Capacity Fees, Capacity Fees collected as a result of annexations, and any in-lieu Fees passed through by SLO County to the costs of purchasing water.

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- E-4) RECEIVE WATERLINE INTERTIE PROJECT FUNDING RECOMMENDATIONS FROM SUPPLEMENTAL WATER PROJECT COMMITTEE (continued)
- Expedite negotiations with purveyors to detail the respective obligations of each purveyor to pay for the costs of purchasing water and to pay for operations costs.
 - Wait to make determinations on the use of property taxes and user fees to pay for the costs of purchasing water and to pay for operations costs until more information is available.

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

02:43:08

I. CLOSED SESSION ANNOUNCEMENTS

At 11:55 a.m. Jon Seitz, District Legal Counsel, announced the following items to be discussed in Closed Session.

1. CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9 SMVWCD VS NCSO SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.
2. CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9 MARIA VISTA VS. NCSO CASE NO. CV 040877
3. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION GOVT. CODE §54956.9 – JESSE HILL (IN PRO PER) V. NCSO CV 060325 AND RELATED LIABILITY CLAIM PURSUANT TO GOVT. CODE §54961.
4. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION GOVT. CODE §54956.9 - NCSO V. SO. CALIFORNIA GAS CO. ET AL. LC066128

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

02:43:50

K. ADJOURN TO CLOSED SESSION

The Board adjourned for Closed Session.

02:43:50

M. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 12:50 p.m.

Jon Seitz, District Legal Counsel, announced that the Board heard an update from legal counsel on the Closed Session items. There was no reportable action.

02:45:34

E. ADMINISTRATIVE ITEMS (continued)

E-5) NOMINATE DIRECTOR FOR ALTERNATE TO LAFCO SPECIAL DISTRICT SEAT

There was no public left in the audience.

The Board discussed the election of an alternate Special District member. Director Wirsing nominated Director Eby. The Board unanimously agreed. The form will be completed and forwarded to LAFCo.

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02:52:20

E-6) RELOCATION EXPENSES AND HOUSING INCENTIVES FOR GENERAL MANAGER CANDIDATES

The Board discussed the report from the Personnel Committee (Directors Wirsing and Vierheilg) on relocation expenses and housing incentives for recruiting new General Manager. There was no public comment. There was no action.

03:00:50

F. MANAGER'S REPORT

Ed Kreins, Interim General Manager, reviewed his report to the Board.
Bruce Buel, Projects Manager, reviewed his report to the Board.

03:05:20

G. COMMITTEE REPORTS

- G-1) Receive Draft Minutes from May 10, 2006 Supplemental Water Committee Meeting
- G-2) Receive General Manager recruitment brochure.

The Board discussed changes for the brochure. Director Trotter would like to have the recruitment brochure discuss maintenance of District facilities as part of the operation and preventative maintenance program.

The Conservation Sub-Committee (Directors Winn and Vierheilg) met with Ms. Madonna Dunbar. They are pleased with the work being done and the projects planned.

03:11:20

H. DIRECTOR'S COMMENTS

Director Eby stated that negotiations with the City Santa Maria on the Memorandum of Understanding for the next step of the waterline project need to be started soon.

The SLO County Board of Supervisors adopted the Planning Area Standards at the May 23rd meeting.

He would like to have a future agenda item to consider changing the meeting time.

Director Winn – stated that the SCAC meeting held Monday, May 22, 2006, chaired by Director Eby, was run well.

May 24, 2006, 4:00 p.m. - Ribbon cutting for the Dorthea Lange School.

May 31, 2006, 1:30 p.m. – WRAC meeting

May 31, 2006, 12:00 – 1:00 p.m. Chamber of Commerce meeting in the Blacklake Community Room.

03:22:29

ADJOURN

President Vierheilg adjourned the meeting at 1:29 p.m.