

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 41 - Years of Service 1965 - 2006*

## MINUTES

**OCTOBER 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

BRUCE BUEL, **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 9:01 a.m. and led the flag salute.
- 00:00:48 B. ROLL CALL  
At Roll Call, all Board members were present.
- 00:01:00 C. PUBLIC COMMENT PERIOD  
PUBLIC COMMENT  
President Vierheilig asked if anyone wished to address a matter that is not on the Board's agenda.
- 00:01:19 The following members of the public spoke:  
Jesse Hill, NCS D resident – stated that he is glad to see that NCS D, on the SAIC {Science Applications International Corporation} Technical Memo, is looking at modeling in terms of how to manage the basin. He presented some ideas he felt were important to well monitoring. Modeling should use static well levels.  
John Snyder, Nipomo resident – stated that he disagreed with the portion of the October 9, 2006, SAIC Technical Memo that reported in April 2000, the volume of groundwater in storage above sea level underneath the Nipomo Mesa Management Area was 124,000 acre feet. He gave the Board a packet of information (filed in the Board Packet for 10-25-06 in the office).
- 00:10:04 C-1) LARRY KRAEMER OF CANNON RE: WATER AND SEWER MASTER PLAN  
Larry Kraemer presented information to the Board concerning the development of the Water and Sewer Master. He gave the Board a project schedule outlining the phases of the project. The Board discussed the project with Mr. Kraemer and thanked him for his presentation. There was no public comment.
- 00:19:01 C-2) NCS D UTILITY SUPERVISOR DAN MIGLIAZZO  
Dan Migliazzo presented information concerning operations of the Utility Department.
- Blacklake interconnect was complete October 13, no pressure problems, operating very well.
  - Blacklake WWTP has a new surface-aeration system.
  - Sample stations are being replaced with weather-resistant, maintenance-free, graffiti-proof covers.

## C-2) NCSD UTILITY SUPERVISOR DAN MIGLIAZZO (continued)

- Olympic Well – back on line at 150 gpm running 24/7 after having replaced the pump and motor.
- Omiya Well – off line – water quality is poor. Next budget year, it will be proposed to destroy the well.
- Southland WWTP aerators and mixers are being installed
- Sundale Well is off line for maintenance. It is normally run from May 1<sup>st</sup> to Oct. 1<sup>st</sup> because of the cost of electricity. The larger electric wells are kept off line until the demand is lower. Eureka Well is the primary and Via Concha secondary.
- Flushing program in progress, verifying valve locations, etc.

Director Trotter asked what the bloom is on the BL Wastewater Treatment Plant. Mr. Migliazzo answered that it is duckweed, which is a common occurrence this time of year. It will die off when the weather gets cold. Director Trotter also asked if there is a program to test the well pumps periodically. Mr. Migliazzo stated that an efficiency test is performed once a year. Director Trotter stated that there is software available that helps test the efficiency perhaps once a month. He also commended Mr. Migliazzo for his excellent work with the Blacklake inter-connect project.

Mr. Migliazzo stated that he feels fortunate to have the diligent field crew who does very good work.

00:28:25

## C-3) NCSD WATER CONSERVATION SPECIALIST MADONNA DUNBAR

Madonna Dunbar reviewed information provided in the Manager's Report (F) concerning water conservation activities.

- Saturday, Sept 30<sup>th</sup> was the Community Creek Clean-up Day. 2½ tons of trash was removed from the creek beds and community. There was excellent media coverage county-wide.
- Saturday, October Festival Oct. 14<sup>th</sup> – District had a water conservation booth.
- Saturday, October 21 was Storm Drain Marking Day in Olde Towne Nipomo – It was co-sponsored by the County Public Works. Plans are in the works to mark the storm drains west of the highway. Six high school students participated.
- Saturday, October 28 – Compost Workshop to be held in the District's board room. There are 27 registrants. There will be 2 more classes after this Saturday.
- NCSD partnering with the Air Pollution Control District to produce a rainwater-harvesting demonstration area. It is in the process of being installed. The project will probably be completed by the end of November. There will be a report to the Board on November 22<sup>nd</sup>.
- The office has been busy answering questions about customer high water use.
- Welcome packets soon will be mailed out to new customers.
- Working with Bob Reed of the Reed Group. Director Eby asked questions about the report in the Manager's Report portion of the packet.

Director Winn suggested that the Creek Day not be held on the same day as the County's. There was no public comment. The Board thanked Ms. Dunbar for her report.

00:39:00

## C-4) NCSD ASSISTANT ADMINISTRATOR LISA BOGNUDA

Lisa Bognuda reviewed information concerning the Quarterly Financial and Investment Performance, as presented in D-4 of the Consent Agenda. The Board asked questions and Ms. Bognuda answered.

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C-4) NCSD ASSISTANT ADMINISTRATOR LISA BOGNUDA (continued)  
The following member of the public spoke:  
John Snyder, Nipomo resident – stated that the discussion of an item on the Consent Agenda not during the Consent Agenda period is a Brown Act violation  
The Board thanked Ms. Bognuda for her report.

00:46:57

D. CONSENT AGENDA  
Bruce Buel, General Manager, reviewed the items on the Consent Agenda.  
The Board had several corrections in the Minutes (D-4).

- D-1) WARRANTS
- D-2) BOARD MEETING MINUTES  
Approve minutes of October 11, 2006 Regular Meeting
- D-3) AMEND HETRICK REPLACEMENT PROJECT AGREEMENT WITH BOYLE TO ADD ENGINEERING SERVICES DURING CONSTRUCTION
- D-4) ACCEPT FIRST QUARTER FINANCIAL REPORT AND SUMMARY OF BUDGET AMENDMENTS
- D-5) ACCEPT THIRD QUARTER INVESTMENT REPORT

Upon motion of Director Trotter and seconded by Director Eby, the Board unanimously approved the Consent Agenda, as amended. Vote 5-0

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

00:51:21

E. ADMINISTRATIVE ITEMS

E-1) RECEIVE STATUS REPORT REGARDING REQUEST FROM MARIA VISTA ESTATES TO ACCEPT WATER AND SEWER IMPROVEMENTS AND TO SET WATER METERS IN TRACTS 1802 AND 1856

Bruce Buel, General Manager, explained that staff is not ready to accept the improvements at the Maria Vista Estates project.

The following members of the public spoke:

Ed Jones, Project Manager for Trincon Construction Group – reviewed the progress within the project. He requested that the Board approve the setting of some of the meters within the project. He thanked the Board for their time.

Jon Seitz, District Legal Counsel, stated that the Engineer’s Certificate, warranties, easements are all necessary before approving a project.

The Board agreed that the decision to accept the project should be left with the general manager and for him to bring the matter to the Board for final acceptance.

Bob Blair, NCSD resident – stated that he saw the houses and they are well-built. He stated that it is a nice project and he would hate to see the project go bankrupt.

01:15:40

E-2) AWARD BID AND AUTHORIZE EXECUTION OF CONSTRUCTION CONTRACT FOR HETRICK WATERLINE REPLACEMENT PROJECT

Bruce Buel, General Manager, explained the process necessary to award the bid for the Hetrick Waterline Project.

There was no public comment.

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E-2) AWARD BID AND AUTHORIZE EXECUTION OF CONSTRUCTION CONTRACT FOR HETRICK WATERLINE REPLACEMENT PROJECT (continued)

Upon motion of Director Winn and seconded by Director Eby, the Board unanimously agreed to the following:

- Award the bid to Papich Construction,
- Authorize execution of a contract with Papich Construction for \$118,384,
- Authorize staff to issue the Notice to Proceed as soon as the contract is fully executed, all bonds and insurance documents, and is completed to the satisfaction of the General Manager.
- Authorize the General Manager to issue individual Change Orders for up to \$5,000 with an aggregate Change Order total not to exceed \$15,000.

Vote 5-0

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

01:22:445

E-3) CONSIDER APPROVING PLANS FOR BLACKLAKE WATER PUMP STATION RE-BUILD AND AUTHORIZE PROCESSING OF BIDS FOR SUBSEQUENT BOARD CONSIDERATION

Bruce Buel, General Manager, reviewed the idea to re-build the Blacklake Water Booster Station. He recommended that the process be deferred until a meeting is held with the Blacklake Community discussing the situation. There was much Board discussion.

The following members of the public spoke:

Bill Nelson, NCSD resident – stated that he didn't know how the accounting would be done to charge the Blacklake community for water from the inter-tie. He stated that he thinks that when the Blacklake community understands the situation, it will accept it.

Jesse Hill, NCSD resident – stated that it makes sense to combine the two systems.

Director Winn stated that NCSD would be consolidating only the water systems. Several things need to be considered.

- Determination if the two systems can legally be merged.
- Staff needs to meet with the Blacklake community.

Director Wirsing asked if the Sundale Well would be in play in deciding about the merge. She also asked where the funds would come from to pay for the study.

Mr. Buel answered that the funds would come from Blacklake Water Fund.

Director Trotter stated that a committee needs to be formed.

More Board discussion ensued.

Director Trotter stated that the Blacklake community does not want benefits beyond that of the Town Division and, that it want to be treated equally in every respect. Many items need to be addressed.

Upon motion of Director Winn and seconded by Director Eby, the Board agreed to the following:

- To continue this item until the December 13<sup>th</sup> meeting,
- Instruct staff to continue discussions with the Blacklake community

Vote 5-0

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

- E-3) CONSIDER APPROVING PLANS FOR BLACKLAKE WATER PUMP STATION RE-BUILD AND AUTHORIZE PROCESSING OF BIDS FOR SUBSEQUENT BOARD CONSIDERATION (continued)

President Vierheilig asked that this item be put on the next agenda to form a committee to work with staff and the Blacklake community to discuss the situation.

Dan Migliazzo, Utility Supervisor, explained to the Board that the Pump #1 needs major repairs. The inter-connect saved Blacklake from a break down. Pump #3 has been useless for three years.

Director Wirsing asked if the fire flow was still adequate and also in case of an earthquake would there be power.

Mr. Migliazzo stated that with the inter-connect, it is adequate. The small inter-connect has been used for three years during the peak water usage periods. The new system can operated off a generator in case of emergency.

02:00:55

- E-4) RECEIVE STAFF PRESENTATION ON WATER ALLOCATION AND ANNEXATION POLICY ISSUES AND SCHEDULE SPECIAL MEETING TO CONSIDER REVISIONS TO WATER ALLOCATION POLICY AND TO ANNEXATION POLICY

Bruce Buel, General Manager, reviewed the information in the Board letter. He recommended that this item be discussed in a special workshop on November 15<sup>th</sup>.

Director Winn questioned how the statistical package treats zeroes and blanks.

Director Eby thanked Mr. Buel for the report of observed use rather than the way the Urban Water Management Plan reported the projected use.

The following members of the public spoke:

John Snyder, Nipomo resident – stated that Mr. Bob Beeby when testified at the trial, he stated that there is 84,000 acre feet of water in storage in the year of 2000 in the larger management area. He did not know how Mr. Beeby could make a projection that by the year 2030 there would be five years without rainfall. He suggested getting a hydrologist who does not just re-quote other studies.

Jon Seitz, District Legal Counsel, asked Mr. Snyder which phase Mr. Beeby's testimony related to – the sub-basin or the Phase II decision that the groundwater basin is one large basin. Mr. Snyder stated that Mr. Beeby read this information (Exhibit C-8) into the trial transcript of Phase V, in July of 2006. The specific area is the area in the stipulation from approx. a year and a half ago, but some people agreed that it went to the ocean (the Nipomo management area). Phase III had an area that ended at the railroad track Mr. Seitz clarified that Mr. Snyder was giving testimony relating to the Nipomo Management area in the stipulation.

Jesse Hill, NCS D resident – stated that as the Holloway's representative, notification should be given to owners and Ms. Florence, if the Annexation Policy will be changing. Also, concerning the comparison of allocation uses, it may be good to come up with return flows for the numbers.

Terry Orton, Westland Engineering representative – stated that the houses built after 2000 were required to have low flow fixtures installed.

Mr. Buel stated that the numbers were taken from a mix of older and newer buildings. There was no distinction of age of homes.

Bob Blair, NCS D resident - stated that he would like to see a consensus of opinion rather than we have plenty of water or we don't. He stated that some communities offer incentives for landscaping, such as the use of rocks and native plants that use little or no water. Perhaps something like that could be done here.

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E-4) RECEIVE STAFF PRESENTATION ON WATER ALLOCATION AND ANNEXATION POLICY ISSUES AND SCHEDULE SPECIAL MEETING TO CONSIDER REVISIONS TO WATER ALLOCATION POLICY AND TO ANNEXATION POLICY (continued)

Director Eby stated that water in storage above sea level is not necessarily available, usable water. The reports should state available water.

Director Trotter agreed with Director Eby and that the memo from SAIC was deficient. Mr. Buel could take some of the comments today to SAIC to be incorporated into another study. It is frightening to pump water down to sea level.

Director Wirsing stated that the answers should not be manipulated.

Director Winn stated that the District needs to look at pumpable water.

Comments on the following:

- Would like to know more about the quality of the water from the Omiya Well.
- Would like more information about the wells west of the Santa Maria fault.
- Was disappointed that the Technical Memo from SAIC drew on sources that we {the District} placed little confidence in (such as, the DWR report).
- Would like to see SAIC information which was presented to the court in condensed form that can be understood.

Upon motion of Director Winn and seconded by Director Trotter, the Board agreed to schedule a workshop for November 15, 2006, and continue the current Allocation Policy. Vote 4-1 with Director Eby voting no.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Trotter, Wirsing, and Vierheilig	Director Eby	Director Trotter

02:44:16

E-5) CONSIDER APPROVING WATER AND SEWER INTENT TO SERVE LETTER FOR 38-UNIT SUBDIVISION AT BLUME AND GRANDE

Bruce Buel, General Manager – reviewed request from the Gray Trust for water and sewer service for Tract 2441.

The following members of the public spoke:

Terry Orton, from Westland Engineering answered the question affirmatively from President Vierheilig if the Gray Trust is aware of the existing Capacity Fees.

The following members of the public spoke:

John Snyder, Nipomo resident – stated that none of the memorandums discussed dependable yield, safe yield, etc.

Jesse Hill, NCSD resident – stated that the allocation comparison of uses doesn't seem fair to charge the capacity fees, that it should be based on fixture units or flow.

Bob Blair, NCSD resident – stated that the half million dollars from the Gray Trust for supplemental water fees may price out new construction.

Director Trotter stated that housing prices are driven by the market and not by development costs. He also stated that an allocation policy is in place now.

Upon motion of Director Trotter and seconded by Director Winn, the Board agreed to direct staff to allocate water to the project (7 acre-feet in AY06-07 and 4.4 acre-feet in AY07-08) in accordance the District's water allocation policy and re-issue the Intent-to-Serve (ITS) letter for the project with the conditions as outlined in the Board letter.

Director Wirsing stated that this project was tabled until the Board set new allocation limits. Director Eby stated that there was no new information, therefore he could not support the motion. Vote 3-2 with Directors Wirsing and Eby voting no.

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E-5) CONSIDER APPROVING WATER AND SEWER INTENT TO SERVE LETTER FOR 38-UNIT SUBDIVISION AT BLUME AND GRANDE (continued)

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

The Board went into Closed Session at 12:12 p.m.

02:56:36

I. CLOSED SESSION ANNOUNCEMENTS

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 RE: PENDING LITIGATION GC 54956.9 NCSO VS. COUNTY OF SAN LUIS OBISPO (SUMMIT STATION LAND USE ORDINANCE AND ENVIRONMENTAL IMPACT REPORT
4. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; SAN LUIS OBISPO COASTKEEPER VS. NCSO (CASE NO. CV060349)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

02:56:57

K. ADJOURN TO CLOSED SESSION

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

Recording started over

00:00:00

L. OPEN SESSION  
ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came out of Closed Session at 1:30 p.m.

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

The Coastkeeper litigation will be heard Monday, October 30, 2006, at 9:00 a.m. with Judge Bikey. This is the challenge to the Urban Water Management Plan.

00:02:42

E-6) DISCUSS IMPACTS OF CALIFORNIA SUPREME COURT DECISION IN BIGHORN CASE ON DISTRICT PROCESSES

Jon Seitz, District Legal Counsel, reviewed the some of the impacts of the Supreme Court's decision on Proposition 218 upon this District. NCSO has been following the procedures set forth in the decision.

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00:09:23

E-7) DISCUSS SELECT LEGISLATION ADOPTED BY STATE

Jon Seitz, District Legal Counsel, reviewed some bills approved by the legislature during 2006 that affect this District.

- AB 2951 Capital Fees and Charges
- AB 1317 Collect fees – property taxes
- SB 1210 Eminent domain
- Brown Act cases for employee matters

There was no public comment.

00:24:30

E-8) CONSIDER OPPOSING MEASURE J ON NOVEMBER 7, 2006 BALLOT

Bruce Buel, General Manager, reviewed the proposal to oppose Measure J. Board discussion ensued.

- Willow Road extension may be delayed because the State and SLOCOG would be funding the freeway overpass in San Luis Obispo related to the development.
- Other developers could wipe out the requirements for supplemental water.
- Overpass may cost \$49 million. Dalidio's share is about \$3 million
- Will negatively impact this District
- Planning by ballot initiative circumvents the CEQA process

The following member of the public spoke:

Bob Blair, NCS D resident – stated that this is a property rights issue. He stated that he would abstain if he was on the Board.

Upon motion of Director Eby and seconded by Director Winn, the Board unanimously agreed for the Nipomo Community Services District to go on record as opposing Measure J 06 and publish a press release. Vote 5-0

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

Director Trotter left the meeting at 2:15 p.m.

00:38:06

E-9) RECEIVE STAFF REVIEW OF SUPPLEMENTAL WATER SUPPLY PROJECTS AND SET WORKSHOP TO RECEIVE PRESENTATION ON DESALINATION TECHNOLOGY

Bruce Buel, General Manager, reviewed some supplemental water supply alternatives, as described in the 2001 Kennedy Jenks study. The Board discussed the options and a free workshop, which is focused on desalination, to be presented by Boyle Engineering.

- Would like to go alone and not with another agency
- Possibly securing a seat on the Central Coast Water Authority (CCWA)
- Two kinds of desalination (seawater and brackish water)
- Water conservation

Upon motion of Director Winn and seconded by Director Eby, the Board unanimously agree to set January 17, 2007, as a workshop to explore desalination.

The following member of the public spoke:

Bob Blair, NCS D resident – stated that Twitchell Dam could be an alternative source of water. Turn the lake into a recreational area. He also stated that desalination is the way to go with the oil company. CCWA is a possibility.

Vote 4-0 with Director Trotter absent.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Wirsing, and Vierheilg	None	None



01:09:20 F. MANAGER'S REPORT

Bruce Buel, General Manager – offered the Manager's Report as written. The report from Koff and Associates has not yet arrived.

01:10:44 G. COMMITTEE REPORTS

G-1) October 16, 2006, Parks Committee Meeting Minutes

Director Wirsing reported that it was a good discussion. There will be a survey developed to get residents' opinions.

Director Eby stated that he would not support the park land across the street if it became mostly a parking lot.

01:19:20 H. DIRECTOR'S COMMENTS

Director Wirsing stated that she had nothing to do with the negative vote on State Water. Director Eby stated that he took a trip to a small, incorporated town in Texas. Their concerns about water are similar to this District's.

Director Winn –

- Tuesday, Nov. 7, 2006 Election Day
- Wednesday, Nov. 1, 2006 – WRAC – will receive Draft Resource Management System
- Wednesday, Nov. 15, 2006 – Edited view of the Draft Resource Management System
- Thursday, Nov. 9, 2006, PUC meeting in Orcutt – The discussion planned will be “Can they raise rates for supplemental water?”

01:32:09 ADJOURN

President Vierheilig adjourned the meeting at 2:59 p.m.

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

**TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Waterline Intertie Project Pre-Design Technical Memorandum
- FY2005-2006 Audit