

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 42 - Years of Service 1965 - 2007

MINUTES

JANUARY 24, 2007 9:00 A. M.

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

MICHAEL WINN, **PRESIDENT**
LARRY VIERHEILIG, **VICE PRESIDENT**
CLIFFORD TROTTER, **DIRECTOR**
ED EBY, **DIRECTOR**
JAMES HARRISON, **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 Winn called the meeting to order at 9:01 a.m. and led the flag salute.

Recorder not working. Started over in middle of presentation at 00:00:00

B. ROLL CALL AND ACKNOWLEDGEMENT OF DAN ANDERSON'S SERVICE

At Roll Call, all Board members were present.

President Winn presented a resolution to Dan Anderson for his service to the community of Nipomo as Battalion Chief from 1997 to his retirement in November 2006. Battalion Chief Anderson served as Chief of Stations 20, 21 and 22. Battalion Chief Anderson thanked the Board for the resolution.

00:03:34

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) LARRY KRAMER OF CANNON ASSOCIATES Presentation re: Water and Sewer Master Plan

Larry Kramer of Cannon Associates presented information concerning the Water and Sewer Master Plan project. Cannon has published an administrative draft on the water and sewer load projection. The Board has received copies. Water and sewer models are about 90% complete. They are working with District field crew for testing of the wells. They are monitoring wet wells for the report to be accurate for future projections. After Cannon receives comments from the Board and staff, the comments will be discussed at the presentation of February 21, 2007.

00:06:03

C-2) MIKE EISNER OF NIPOMO INCORPORATION COMMITTEE Presentation re: Status of Incorporation Effort and Request for Participation

Mike Eisner, Nipomo resident – thanked the Board for the opportunity to speak today and thanked those who attended the workshop on Saturday, January 20, 2007. He asked NCS D to participate with the feasibility committee and appoint someone to be a liaison. The goal is to go to ballot by 2010. The committee plans to involve the community in the process.

Guy Murray, NCS D resident – stated that the focus is to consider the best vehicle and avenue for fundraising.

Mr. Eisner stated that approx. \$200,000 needs to be raised for the process.

00:10:38

C-3) DANA LILLEY OF SLO COUNTY PLANNING AND BUILDING DEPARTMENT

Dana Lilley, SLO County Planning Department, introduced the information for funding options for the proposed Willow Road Extension. Some funding will be obtained from the Woodlands, the State and some road impact fees. About \$13-17 million is still needed to complete the project. It will be discussed at the February 27, 2007, Board of Supervisors meeting to request direction and authorization to proceed the process to form with a Community Facilities District (CFD).

David Taussig, consultant to the SLO County Planning Department for the formation of a CFD, presented a quick overview of the workings of forming a CFD. He provided a handout to the Board and reviewed the information. (The handout is available for viewing in the District office.) He stated that the funding would hopefully come from new development. A parcel tax would require a two-thirds vote of the property owners. The Board discussed the report with Mr. Taussig.

Director Winn had a list of questions for Mr. Taussig and the County to consider. Dale Ramey, SLO County Public Works – explained that the Road Improvement Fee Area 1 and 2 are about equal. One hundred percent of the Woodlands fee is going toward the Willow Road Extension. The homes would not be included in the Mello-Roos (CFD) because the District is not formed yet.

The following members of the public spoke:

Jesse Hill, District customer – commented about road impact fees, disagreement with an undeveloped property tax, and ability for development to pay for the project. There may be other solutions that make more sense.

Carl Holloway, Nipomo resident – stated that the County is playing catch-up. He suggested that the County do the simplest fix now for the traffic. He suggested ingress-egress ramps at Willow and an egress ramp at Southland.

Director Winn thanked the presenters. He stated that we would like to find a solution to the problem.

01:05:10

C-4) UTILITY SUPERVISOR DAN MIGLIAZZO

Dan Migliazzo provided the Board with an update on the Utility Operations.

- Flushed the east side in part. The work list grows as problems are found.
- Some manhole covers were replaced on Tefft and Division Streets.
- Abandoned a 6-inch AC line on Price and Bennett.
- Considering another alternative for the Blacklake booster station
- Flushed the Juniper line. Video-taped to find the size and the deterioration of manholes
- Meter replacement program is going well. At least 250 meters that are over 10 years old have been replaced.
- Bevington Well electrical panel being evaluated
- Every well is being fitted with lapsed-time clocks
- Upgrading the SCADA to reach the goal of every lift station on the system and every well to show data, such as amp loads, etc.

There was no public comment.

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01:13:13

C-5) ASSISTANT ADMINISTRATOR LISA BOGNUDA

Lisa Bognuda, District Assistant Administrator - provided the Board with a brief update on District Finances and an overview of the Second Quarter Financial Report on D-5.

There was no public comment.

01:17:43

C-6) PUBLIC COMMENT ON PRESENTATIONS AND ITEMS NOT ON AGENDA

Jesse Hill – NCS D resident – handed a packet to the Board and reviewed some of the information on it.

Ed Jones, TCG and Maria Vista Project Manager – gave a brief outline of the progress at the project site. He stated his disappointment in the mediation last Thursday and with Rusty Garing’s report.

The Board took a break at 10:27 a.m. and returned at 10:40 a.m.

01:29:42

D. CONSENT AGENDA

- D-1) APPROVE WARRANTS
- D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of January 10, 2007, Regular Meeting
- D-3) RECEIVE FOURTH QUARTER INVESTMENT REPORT
- D-4) CONFIRM DISTRICT INVESTMENT POLICY 2007
- D-5) RECEIVE SECOND QUARTER FINANCIAL REPORT
- D-6) SET DATE FOR REVIEW OF GENERAL MANAGER PERFORMANCE
- D-7) INITIATE REVIEW OF BOARD BYLAWS

Director Vierheilig asked to pull Item D-6 for separate consideration. He stated that there was an error with the next Resolution number listed on the Agenda and a minor error in C-2 of the Minutes.

Upon motion of Director Eby and seconded by Director Vierheilig, the Board unanimously approved Items D-1, 2, 3, 4, 5, and 7 of the Consent Agenda, as amended. There was no public comment. Vote 5-0.

**RESOLUTION NO. 2007-1002
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING THE YEAR 2007 DISTRICT INVESTMENT POLICY**

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

D-6) The Board discussed that the wording on the evaluation form needs to be reviewed by the Personnel Committee but that the present form is adequate to evaluate the General Manager. Jon Seitz, District Legal Counsel, explained that it is not necessary to have an evaluation form approved before the Board performs the evaluation.

Upon motion of Director Vierheilig and seconded by Director Trotter, the Board unanimously agreed to set a date to review the General Manager’s performance. There was no public comment. Vote 5-0.

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

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01:42:50

E. ADMINISTRATIVE ITEMS

E-1) CONSIDER SOUTHLAND SHOP ENVIRONMENTAL DETERMINATION

Bruce Buel, General Manager, reviewed the concepts for the plans to upgrade the Southland shop. He described the process for the Environmental Declaration.

Doug Wood of Douglas Wood & Associates Inc. reviewed the steps taken to prepare the Expanded Initial Study/Mitigated Negative Declaration to process through CEQA.

The sole purpose of the project is to increase the efficiency of the sewer treatment and maintenance office area.

There was no public comment.

Upon motion of Director Vierheilig and seconded by Director Harrison, the Board unanimously approved Resolution 2007-1002, as amended. Vote 5-0.

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

**RESOLUTION NO. 2007-1003
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING A MITIGATED NEGATIVE DECLARATION AND AUTHORIZING THE GENERAL MANAGER AT A FUTURE TIME TO FILE A NOTICE OF DETERMINATION FOR THE SOUTHLAND SHOP UPGRADE PROJECT (DISTRICT INITIATED PROJECT)**

E-2) NOT USED

01:59:01

E-3) CONSIDER REQUEST FROM HOLLOWAY FOR OUTSIDE SERVICE AREA AGREEMENT

Bruce Buel, General Manager, reviewed the request from Mr. Carl Holloway for an Outside Use Agreement for Tract 2642 on South Oakglen Avenue.

The Board discussed that there may be other developments that would qualify for this type of arrangement.

The following members of the public spoke:

Carl Holloway, property owner and applicant – asked the Board to consider the request rather than having him form a mutual water company.

Jesse Hill, representative for the property owner – stated that it would make more sense to be served by NCSD. Putting in septic systems near the creek would not be environmentally sound. He asked that the agreement could be completed by the February 14th LAFCo meeting.

Jon Seitz, District Legal Counsel, stated that it is unlikely that an agreement can be complete for February 14th.

The Board discussed that they would like to have a similar format for all three possible Outside User Agreement applicants. Mr. Seitz suggested that each agreement would be different because each has different circumstances but the basic format would be similar.

Director Eby stated that the District is setting a precedent with this action. He stated that it seems the District is trying to circumvent the LAFCo agreement that is in place taking water before a supplemental water supply is at hand. The District wells are already overcommitted. The applicant does not need the District water for his development.

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E-3) CONSIDER REQUEST FROM HOLLOWAY FOR OUTSIDE SERVICE AREA AGREEMENT (continued)

Upon motion of Director Vierheilig and seconded by Director Harrison, the Board authorized negotiation of a draft agreement with Carl Holloway and that the Agreement obligate annexation of the property once supplemental water is available and that the property owner be charged with constructing and dedicating utilities to District Standards. Vote 4-1 with Director Eby voting no.

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

Director Eby suggested that the agreement use the same model as other Outside Users, charging double the prevailing rates. Jon Seitz, District Legal Counsel, stated that staff will come back with a separate resolution with the agreements and rates.

Upon motion of Director Eby and seconded by Director Vierheilig, the Board unanimously agreed to the concept of suspending processing of subsequent annexation requests until a supplemental water project is completed and direct legal counsel to bring back a resolution suspending the processing of new annexation applications.

The following members of the public spoke:

Jesse Hill, representative for Holloway project – stated that it is not in the best interest to adopt the motion. He read from the handout he had previously given the Board. Vote 3-2 with Directors Harrison and Winn voting no.

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

Director Eby suggested that the benefits or detriments of mutual water companies be discussed in a future Board meeting.

02:41:04

E-4) CONSIDER DEBLAUW REQUEST TO WAIVE LOOPING REQUIREMENT

Bruce Buel, General Manager, reviewed the request from Duane DeBlauw (Tract 2734) to waive the District's looping requirement to serve the development.

The Board discussed the layout of the development in relation to the existing water lines and how they would be connected now and for future development.

The following members of the public spoke:

Steve Babcock, representative to DeBlauw – answered the questions from the Board.

Upon motion of Director Trotter and seconded by Director Harrison, the Board unanimously agreed to adopt Resolution 2007-1003, which approves the waiver with conditions to the development. Vote 5-0

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

**RESOLUTION NO. 2007-1004
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING THE WAIVER OF THE WATER MAIN LOOPING REQUIREMENT
FOR TRACT 2734 (DEBLAUW)**

02:53:59

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the item to be considered 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, MARIA VISTA VS. NCSO CASE NO. CV 061079, AND MARIA VISTA VS. LINDA VISTA FARMS, NCSO ET AL CASE NO. CV 040150)
3. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; SAN LUIS OBISPO COASTKEEPER VS. NCSO (CASE NO. CV060349)
4. INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(C) – NIPOMO CSD VS. SLO COUNTY ET AL IN SAN LUIS OBISPO SUPERIOR COURT

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:05 p.m.

02:56:01

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:35 p.m.

Director Trotter left at 1:00 p.m.

Jon Seitz, District Legal Counsel, announced that the Board did hear updates on the items listed above.

Closed Session Items:

1. There was no reportable action.
2. Upon motion of Director Harrison and seconded by Director Vierheilig, the Board unanimously agreed to direct legal counsel to settle the lawsuit if Maria Vista Estates representatives agree to all proposed conditions discussed in mediation. Vote 4-0 with Director Trotter absent.
3. There was no reportable action.
4. The Board unanimously agreed to approve execution of the agreement with San Luis Obispo County and DeGroot, if offered.

02:57:31

E-5) RECEIVE STRATEGIC PLANNING WORKSHOP REPORT AND CONSIDER ACTION RECOMMENDATIONS

Bruce Buel, General Manager introduced the report from Chuck Beesley. The Board received the report. Staff will receive comments from the Board concerning clerical changes necessary.

03:05:32

F. MANAGER'S REPORT

Bruce Buel, General Manager, presented the Manager's Report and added:

- Bob Beeby stated that a water quality reading will be coming from one well on the strand west of Conoco-Phillips a week from Friday (Feb. 2).
- Director Winn, Director Eby, Jon Seitz, District Legal Counsel, and Mr. Buel attended the RMS hearing in San Luis Obispo. The Board of Supervisors adopted staff's recommendation to return the Level of Severity III for the Nipomo Mesa to the WRAC and the Planning Commission, prior to final adoption.
- There will be an update at a future meeting on the Field Foreman position.

03:10:41

G. COMMITTEE REPORTS

The Conservation Committee (Directors Vierheilig and Winn) met with Staff and looked at issues such as the Emergency Water Ordinance, updating general bylaws on the response to water issues, violations, etc. It will be brought back to the Board at a future date.

There will be a Standing Committee meeting of the Finance, Audit and Personnel Committee January 31, 2007 at 12:00 p.m.

The Parks Committee (Directors Winn and Harrison) met January 22, 2007. The community expressed their concerns. RFP for survey was completed for mailing.

03:16:15

H. DIRECTOR'S COMMENTS

Director Vierheilig – asked how the Willow Rd extension and the Community Facilities District fees may affect the District's seeking funding for the supplemental water project.

Director Eby stated that the fees will come from vacant land.

Attended the Board of Supervisors meeting Tuesday, January 23, 2007. It can be viewed on the Board of Supervisors website. The part concerning the RMS for this District starts at 6 hours. He stated that Caruso said the plan was not certified even though it was approved. Director Eby is hoping it will be certified for this year.

At the BoS meeting, a committee member for a non-existent committee spoke. Park meeting Monday – different types of people attending with differing needs.

Director Harrison – Parks – The District is not planning to take over the Regional Park.

Director Winn – Director Trotter loaned a report on the Delta for circulation among the Board.

Water committee history –

- Nipomo Advisory Group formed first
- Then Supervisor Achadjian reorganized a committee that was appointed not elected
 - They formed a water sub-committee
 - Jesse Hill chaired for approx 3 years
 - No committee for over a year
- Supervisor Achadjian/Winn co-chaired a committee (water planning forum) for about a year
- Then Winn co-chaired with Jesse Hill for 2 years during the WPA6
- Now that group has not met for 3 years

Would like to agendize possibility of forming an advisory committee for parks

Asked that staff send an updated NCSD budget to the organizing Incorporation Committee

H. Directors Comments (continued)

Director Winn

Friday, Feb. 16, 2007 – Seminar at UCLA for land use takings, property rights
Asked staff to get opinion from District Water Counsel about the implications of refusing to consider annexations in light of the MOA with the County and the stipulation by the court.

Wednesday, Jan. 24, 2007 – WRAC meeting at library

Thursday, January 24, 2007 – 8:45 Planning Commission considering West Tefft Design Plan

February 7, 2007, 1:30 p.m. – WRAC – Will be taking comment on Level III certification for NCSO and will come back later. Also, will be discussing nominations to the WRAC.

Director Eby asked if Directors Comments could be heard at the beginning of the meeting as well as at the end.

03:39:19

ADJOURN

President Winn adjourned the meeting at 2:16 p.m.

- **THE NEXT REGULAR BOARD MEETING IS FEBRUARY 14, 2007.**
TENTATIVELY SCHEDULED ITEMS INCLUDE:
 - Bylaws Update
 - Supplemental Water Alternatives Presentation
 - Discussion of Allocation and Annexation Issues

- **THE FOLLOWING SPECIAL BOARD MEETING IS FEBRUARY 21, 2007.**
TENTATIVELY SCHEDULED ITEMS INCLUDE:
 - Southland WWTF Master Plan
 - Water and Sewer Master Plan
 - General Manager Performance Review