

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 42 - Years of Service 1965 - 2007*

## MINUTES

**FEBRUARY 14, 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 9:00 a.m. and led the flag salute.

**00:00:20** B. ROLL CALL

At Roll Call, all Board members were present.

**00:00:60** C. PRESENTATIONS AND PUBLIC COMMENT

President Winn presented a resolution to Judith Wirsing, past NCS D director, thanking her for her service to the community. Mrs. Wirsing thanked the Board.

Director Trotter suggested a book (Future Edge by Joel Barker) to the members of the Board as required reading. He loaned a couple of the books for the Board to share.

Bruce Buel, General Manager, introduced Faith Watkins, who is the temporary Assistant to the Manager. Ms. Watkins thanked the Board for the opportunity to work at the District and offered her assistance to the Board, as well.

**00:06:54** C-1) COMMANDER BASTI OF SOUTH COUNTY SHERIFF'S OFFICE

Commander Martin Basti presented information on Sheriff's Activities on the Nipomo Mesa.

- In response to inquiry regarding the recycle bins, he reported that once anything is put in the recycle bin it has been given away, it is not personal property and not yet property of the trash company.
- He would like the sheriff's office to be called as soon as any graffiti is observed. If there is graffiti on personal property, the County has no authority to go on the property to clean up. It is unlawful for a minor (under 18) to purchase or possess paint spray cans.
- Saturday, February 10, there was a drive-by shooting, seemingly gang related.

President Winn thanked Commander Basti for his presentation.

**00:15:29** C-2) BATTALION CHIEF BILL FISHER OF CA DEPARTMENT OF FORESTRY (CDF)

Bill Fisher, Battalion Chief of Cal Fire (changed from CA Department of Forestry) presented an activity report for Fire Department activities on the Nipomo Mesa in January 2007. A copy is available for viewing in the District office. President Winn thanked Battalion Chief Fisher for his presentation.

00:17:46

## C-3) MIKE NUNLEY OF BOYLE ENGINEERING

Mike Nunley, Project Manager for Boyle Engineering, presented a progress report concerning Evaluation of Alternate Water Supply Options. During night observations, the bio-surveys found red-legged frogs. There are four night surveys remaining. Some alternate water supply options are in the process of being evaluated, including State Water, Santa Maria Valley groundwater, desalination, and recharge of treated wastewater.

Mr. Nunley answered questions from the Board.

00:37:40

## C-4) STAFF UPDATE ON BLACKLAKE WATER SYSTEM NEGOTIATIONS

General Manager, Bruce Buel, presented information concerning the Blacklake water system negotiations. He suggested the item be on the February 28, 2007, agenda to review the engineers' report.

00:41:47

## C-5) DIRECTOR'S ANNOUNCEMENTS OF DISTRICT &amp; COMMUNITY INTEREST

Receive Announcements from Directors Items of District & Community Interest

Director Eby – SCAC elections – filing for intention 2/12 to 3/12/07. Applications are available at the front desk and the SCAC web site.

Town Hall meeting and election March 19th. New council will be seated March 26<sup>th</sup> :

Notice from Jay Johnson – February 22, 2007, 7:00 to 9:00 p.m. meeting in the NCSD Board room concerning Oakglen and Southland.

February 26, 2007, SCAC meeting – presentation by Chuck Stevenson regarding the South Oakglen Area Plan.

Director Vierheilig – Strategic Planning Seminar coming up March 16<sup>th</sup> – Pleasanton May 9, 2007, in Los Angeles

00:47:15

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

The following members of the public spoke:

Cory Cave, Men At Work Property Services – offered his services for graffiti removal, etc. He stated that he has the latest equipment to provide services.

Judith Wirsing, NCSD resident – asked the Board if the public is able to comment on the presenters.

00:52:50

## D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of January 24, 2007, Regular Meeting

D-3) SET MAY 30, 2007, AS DATE FOR FY 2007-2008 BUDGET WORKSHOP; JUNE 13, 2007, AS DATE FOR THE PUBLIC HEARING; AND JUNE 20, 2007, AS DATE FOR THE BUDGET ADOPTION

D-4) RESET DESALINATION PRESENTATION FOR MARCH 21, 2007

D-5) ADD WATER MANIFOLD DETAIL TO STANDARD SPECIFICATIONS

D-6) AMEND CANNON WATER AND SEWER MASTER PLAN AGREEMENT TO ADD ADDITIONAL EVALUATION OF WATER AND SEWER DEMAND PROJECTIONS AND AMEND FY2006-07 BUDGET

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D. CONSENT AGENDA (continued)

D-7) AUTHORIZE EXECUTION OF AGREEMENT WITH CROSBY AND CINDRICH TO PREPARE FY 06-07 THROUGH FY 08-09 AUDITS

Director Vierheilg asked to pull Item D-5 and one item on the Warrants and suggested that in the Minutes for January 24, 2007, - Item F – last sentence of second bullet needs to be deleted.

Staff pulled Item D-4 for separate consideration.

Upon motion of Director Trotter and seconded by Director Eby, the Board unanimously approved Items D-1, 2, 3, 6 and 7, as amended. There was no public comment. Vote 5-0

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

D-4 Mr. Buel stated that Ernie Kertinen cannot be here March 21, 2007, for the desalination presentation. He has committed to coming here in May. Instead, Staff recommends considering the final adoption of the Southland Wastewater Treatment Facility Master Plan on March 21, 2007. Upon motion of Director Vierheilg and seconded by Director Eby, the Board unanimously approved the recommendation from the General Manager. There was no public comment. Vote 5-0.

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

D-5 Director Vierheilg asked to have the item continued for further staff review. Upon motion of Director Vierheilg and seconded by Director Eby, the Board agreed to remove this item for modification and return it to the Board at a later date. There was no public comment. Vote 5-0

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

Item on Warrants – The Board discussed the amount stated on the Warrants to be paid to SP Maintenance. Director Vierheilg stated that the Group #3 area on Waypoint, Ten Oaks, etc. has not been swept adequately. Bruce Buel, General Manager, recommended that he would work with SP Maintenance to remedy the situation. Upon motion of Director Vierheilg and seconded by Director Harrison, the Board unanimously agreed to have staff pursue the matter with SP Maintenance, to withhold payment to SP Maintenance and bring the matter back as an administrative item. There was no public comment. Vote 5-0

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01:08:37 E. ADMINISTRATIVE ITEMS

E-1) CONSIDER AMENDING DISTRICT MISSION STATEMENT AND ADOPTING DISTRICT VISION STATEMENT

Bruce Buel, General Manager, reviewed the Board’s discussion at the Strategic Plan Workshop held December 9, 2006. He read the Mission Statement as it now exists: “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.” The following revised mission statement is proposed.

Mission Statement: The Nipomo Community Services District’s mission is to provide the community with reliable, quality and cost-effective services.

At the workshop, the Board also considered the following Vision Statement:

Vision Statement: The Nipomo Community Services District’s vision is to manage the resources and future growth of the community.

The following member of the public spoke:

Kevin Beauchamp, NCS D customer – stated that the District should build infrastructure rather than have businesses build it.

President Winn stated that the District had some sewer laterals installed on Tefft Street in Olde Towne. The developers would pay as they needed the services. The Board suggested some minor grammatical edits. Upon motion of Director Vierheilg and seconded by Director Eby, the Board unanimously adopted the Mission Statement and the Vision Statement, as amended. Vote 5-0.

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

01:13:59 E-2) CONSIDER INTENT TO SERVE APPLICATION FOR WATER AND SEWER SERVICE AT 1 AVENIDA DE AMIGOS (APN 092-142-033)

Bruce Buel, General Manager, reviewed the request from Mr. Mike Allshouse for an Intent-to-Serve letter for a project on Avenida de Amigos (APN 092-142-033). The water allocation available for multi-family projects for this Allocation Year 06-07 is 4.2 AF of water.

The Board discussed the project fees, allocation and connections.

The following members of the public spoke:

Pam Jardini, from Planning Solutions and representative for Mike Allshouse – discussed the project with the Board.

The Board discussed the fact that the when fees for the project were originally estimated, the supplemental water supply project was estimated to be \$6 million. The fees for this multi-family project will probably increase proportionately. The developer should know that the final fee will be due before a meter is set to serve the project.

Upon motion of Director Vierheilg and seconded by Director Winn, the Board unanimously agreed to direct staff to allocate water to the project (2 acre-feet in AY06-07 and 0.7 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. There was no public comment. Vote 5-0.

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E-2) CONSIDER INTENT TO SERVE APPLICATION FOR WATER AND SEWER SERVICE AT 1 AVENIDA DE AMIGOS (APN 092-142-033) (continued)

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

The Board took a break at 10:35 a.m. and returned at 10:47 a.m.

01:36:56

E-3) CONSIDER RETENTION OF GARING TAYLOR ASSOCIATES TO PREPARE DESIGN FOR BLACKLAKE WWTF POND #3 LINER REPLACEMENT AND ADOPT RESOLUTION TRANSFERRING FUNDS AND PROVIDING FOR REIMBURSEMENT

Bruce Buel, General Manager, explained the proposal to retain the services of Garing, Taylor & Associates (GTA) to prepare design for Blacklake Wastewater Treatment Facility Pond #3 liner replacement and the funding for the actual replacement. The Board discussed the matter.

The following members of the public spoke:

Bill Nelson, NCSD and Blacklake resident – A briefing was given to the Blacklake community in May of 2005, and included the rate increases for water and sewer (including a 4% rate increase every year until the year 2009 for the sewer bill). The community understood that the increases were necessary in order to keep Blacklake going. Now NCSD will be asking for another rate increase. He stated that he hoped the District can get it right this time.

Upon motion of Director Trotter and seconded by Director Harrison, the Board unanimously agreed to authorize execution of an agreement with GTA to perform the scope of work set forth in the attached proposal on a time and materials basis with a not to exceed expenditure limit of \$19,600 and authorize the discussions with Black Lake and the request for Bob Reed to submit a proposal for a rate study for subsequent Board consideration. Vote 5-0

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

01:57:00

E-4) REVIEW OF BOARD BYLAWS

The Board discussed the proposed changes to the By-Laws. The Board agreed to some changes. Upon motion of Director Vierheilig and seconded by Director Trotter, the Board unanimously agreed to have staff make changes and corrections, as discussed. There was no public comment. Vote 5-0.

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

02:30:52

E-5) DEVELOP POSITION ON SALE OF SLO COUNTY WATER ENTITLEMENT TO CCWA AND FORWARD POSITION TO SLO COUNTY AND CCWA

Bruce Buel reviewed the concepts of possibly purchasing a portion of the SLO County Flood Control and Water Conservation District's (FC&WC District) excess entitlements of state water. He spoke with Bill Brennan, General Manager of CCWA, concerning negotiating an agreement. Board discussion followed. There was no public comment.

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E-5) DEVELOP POSITION ON SALE OF SLO COUNTY WATER ENTITLEMENT TO CCWA AND FORWARD POSITION TO SLO COUNTY AND CCWA (continued)

Director Winn suggested for staff to write a letter to the Board of Supervisors, affirming the Board of Supervisors' policies of January 2003; suggest a change in Item 4 to a two-year term rather than five; negotiations need to be done openly – informing our 4<sup>th</sup> District Supervisor and others; and complying with CEQA. Upon motion of Director Eby and seconded by Director Harrison, the Board unanimously agreed to send a letter, as described by Director Winn. There was no public comment. Vote 5-0.

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

02:46:37

The Board discussed moving to Closed Session but moved to E-7 instead.

02:48:55

E-7) CONSIDER DIRECTOR EBY'S REQUEST TO EXPLORE ACTIVATION OF GRAFFITI REMOVAL POWERS

Bruce Buel, General Manager, reviewed the request from Director Eby to have this item on the agenda.

Director Eby stated that there seems to be more graffiti lately. He described several places that have graffiti and has not been cleaned. Cleaning seems to change the cycles. He talked about how others agencies have handled graffiti abatement. He suggested that the Board pursue the District explore the issue. Board discussion followed. Upon motion of Director Trotter and seconded by Director Vierheilg, the Board unanimously agreed to direct staff to return to a future Board meeting with cost estimates, legal analysis, liability, etc. Vote 5-0.

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

03:02:47

I. CLOSED SESSION ANNOUNCEMENTS

Mike Seitz, Deputy 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 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, MARIA VISTA VS. NCSD CASE NO. CV 061079, AND MARIA VISTA VS. LINDA VISTA FARMS, NCSD 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. NCSD (CASE NO. CV060349)
4. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; NCSD VS COUNTY OF SAN LUIS OBISPO (CASE NO. CV070066)

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J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public to comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:14 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:00 p.m. Mike Seitz, District Legal Counsel, announced that the Board heard updates on the items listed above. There was no reportable action.

03:04:00

E-6) REVIEW DISTRICT WATER ALLOCATION POLICY OPTIONS AND DEVELOP PROPOSAL FOR SUBSEQUENT CONSIDERATION

Bruce Buel, General Manager, reviewed the information in the Board letter. The following points were discussed separately.

• ANNUAL ALLOCATION LIMIT

The Board discussed whether the 51 acre feet per year limitation on new water demand should be revised. There was no public comment. Upon motion of Director Eby and seconded by Director Trotter, the Board proposed to change the yearly allocation to 34.3 AFY from the existing 51 acre feet per year. Vote 3-2 with Directors Harrison and Winn voting no.

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

• DIVISION OF ANNUAL LIMIT AMONGST CATEGORIES (EXISTING ALLOCATION)

The Board discussed whether the existing division of the annual usage amongst categories should be revised. There was no public comment. Upon motion of Director Harrison and seconded by Director Vierheilig, the Board unanimously agreed to stay with the current allocation divisions. Vote 5-0.

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

• USE GROUP LIMITATIONS ON FUTURE RESIDENTIAL UNITS (EXISTING)

The Board discussed whether the existing usage estimates for the various categories of land use should be revised. There was no public comment. Upon motion of Director Eby and seconded by Director Harrison, the Board unanimously agreed to use the Actual Values for the proposal. Vote 5-0.

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

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E-6) REVIEW DISTRICT WATER ALLOCATION POLICY OPTIONS AND DEVELOP PROPOSAL FOR SUBSEQUENT CONSIDERATION (continued)

• CERTIFICATION USAGE TARGETS (EXISTING ALLOCATION)

The Board discussed whether the target use values in the water usage certification should be revised. The directors wanted to know what message is being sent to the developers.

The following members of the public spoke:

Greg Parker, Santa Barbara – stated that tying a certification to an observed use will decline. He suggested to tie a developer’s allocation to what you say you will serve them and enforce it by covenants that run with the land, on landscaping, internal plumbing fixtures, etc., He stated that you may obtain your ultimate goal without tying it to observed use in the community as the new ones get less and less.

Upon motion of Director Harrison and seconded by Director Trotter, the Board agreed to direct staff to obtain a solid number of observed usage over a 4-5 year period, put a 30% reduction on the new development and have them certify that their homes would meet that reduction as a proposal for subsequent consideration in a draft ordinance. Vote 4-1 with Director Eby voting no.

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

• TRACKING NON-RESIDENTIAL DEMAND (EXISTING ALLOCATION)

The Board discussed whether the District should start adding a non-residential surcharge (additional tracking) from every allocation commitment.

Upon motion of Director Vierheilig and seconded by Director Harrison, the Board unanimously agreed to start adding the additional usage as a proposal for subsequent consideration in a draft ordinance. There was no public comment. Vote 5-0.

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

• REQUIRING A SEPARATE METER/CHARGE FOR SECONDARY UNITS

The Board discussed whether the District should require a separate meter and a separate capacity charge for the addition of a secondary unit to an existing residential lot now that the County is requiring separate meters.

Upon motion of Director Vierheilig and seconded by Director Eby, the Board agreed to require a separate meter and reduced charge, where detached. There was no public comment. Vote 4-1 with Director Harrison voting no.

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



04:22:20 F. MANAGER'S REPORT

Bruce Buel, General Manager, added some information to the Board letter which was presented in the packet.

- Lisa Bognuda, Dan Migliazzo and Mr. Buel interviewed a candidate for the Engineer position and that individual declined.
- Pudwill's have withdrawn their application for an Outside User request.
- Mr. Buel attended a presentation in Oxnard with Director Trotter. Mr. Boschman, General Manager of the Semi Tropic Water Storage District, was the presenter. (Copies of some slides are available for viewing in the District office.)
- Strategic Plan report comments are due today.

There was no public comment.

04:29:34 G. COMMITTEE REPORTS

- (1) Minutes of January 22, 2007, Parks Committee Meeting  
There were no comments.
- (2) Minutes of January 31, 2007, Finance, Audit, and Personnel Committee Meeting  
Director Vierheilig briefly reviewed the FAP meeting. The next meeting will be March 7<sup>th</sup>.

04:32:26 H. DIRECTORS' COMMENTS FOR STAFFDirector Vierheilig

March 31, April 1 – Central Coast Orchid Show

March 30 – Friday night preview tickets available to benefit the Alzheimers Association.

Director Winn

February 19, 2007 – Professor Clay, Department Chair for Landscape Architecture at Cal Poly, will be bringing a class of landscaping students to look at the proposed park area across the street for suggestions.

He requested to receive the General Manager evaluation forms before the March 21<sup>st</sup> meeting.

The Board of Supervisors declined to add representation to the committee on TDCs to look at Rural Planned Development. Rural planned development will have a huge demand on water and will affect Nipomo. It could change zoning.

Blue Ribbon Committee for TDC meetings – 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 3:30 p.m. in the new government center.

Tracking update of the County's Title 22 on RMF zoning.

February 22, 2007, 7:00 p.m. in the District Board room - Oakglen Specific Plan meeting

- Question to ask at the meeting: Charging fee for hook ramps which can be transmuted into a funding a specific plan, doesn't that constitute a tax instead of a fee?

Asked staff to agendize preferred option for the Blacklake water system for the meeting on February 28<sup>th</sup>.

04:40:23

ADJOURN

President Winn adjourned the meeting at 2:40 p.m.

➤ **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

➤ **THE NEXT REGULAR BOARD MEETING IS FEBRUARY 28, 2007.**

**TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Bylaws Update Approval
- Supplemental Water Alternatives Progress Report
- Holloway Outside User Agreement
- Annexation Policy Review
- Blacklake Water Booster Station Options
- Receive Legal Opinion on Fee Deferral Issue