

# NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 42 - Years of Service 1965 - 2007

## MINUTES

**FEBRUARY 28, 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 community with reliable, quality and cost-effective services.

**Vision Statement:** The Nipomo Community Services District's vision is to manage the resources and future growth 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.

**00:01:08** B. ROLL CALL

At Roll Call, all Board members were present.

**00:01:22** C. PRESENTATIONS AND PUBLIC COMMENT

C-1) COUNTY HEALTH DEPARTMENT REGARDING MOSQUITO ABATEMENT

Kim Catherina and Lea Fainer, San Luis Obispo County Public Health Dept, Environmental Health Services, presented an informative slide show (copy available for viewing in the District office) about activities concerning the Mosquito Abatement Program. The efforts of the programs will hopefully control the West Nile Virus in San Luis Obispo County. The Department will provide mosquito eating fish (*Gambusia affinis*) to residents upon request (free of charge) to place in water troughs and /or residential ponds.

The Board thanked Ms. Catherina and Ms. Fainer for their presentation.

C-2) STAFF PRESENTATION RE QUAGGA MUSSEL

General Manager, Bruce Buel, presented information about the Quagga Mussel. Introducing Quagga Mussels to a body of water is punishable by harsh fines and impoundment of vessel. It is imperative that vessels (boat, trailer and vehicle) be inspected and mussels be removed. The entire information packet is available for viewing in the District office or on the web at [www.protectyourwaters.net](http://www.protectyourwaters.net).

There was no public comment.

C-3) STAFF UPDATE ON DISTRICT UTILITY OPERATIONS

Utility Supervisor Dan Migliazzo reviewed information provided in the packet and added: Dan passed the examination for a Grade IV water operator.

Confined-Space class was held in the District Board room on February 23<sup>rd</sup>.

Power outage Friday night kept on-call employee busy until 4:00 a.m.

Dan has been working with Cannon and Garing, Taylor & Associates on the Master Plan.

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C-4) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST  
Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig

March 3, 2007, Saturday, 9:00 a.m. to 12:00 p.m. - Nipomo Native Garden, Work Day  
March 16, 17, & 18, 2007 - Santa Barbara International Orchid Show, Earl Warren Showground.

March 30, 31 & April 1, 2007 – Central Coast Orchid Show, South County Regional Center. Tickets are available for the Friday night preview to benefit the Alzheimer's Association, California Central Coast Division.

Director Eby

SCAC annual election March 19, 2007, 11:00 a.m. to 8:00 p.m.

Candidacy open to March 12. There will be a Town Hall meeting March 12<sup>th</sup> in the District Board room to introduce the candidates

March 26, 2007 – New council members will be sworn in to begin a new year.

Director Trotter

George Billinger is the representative to NCS D for Blacklake. He has appointed a committee formed to discuss whether to rebuild the Blacklake water pump or connect to the Town Water Division.

Director Winn

February 28, 2007, 3:30 p.m. TDC Blue Ribbon Committee will meet in San Luis Obispo.  
March 1, 2007, CCWA Membership meeting 12:00 p.m. in Room 106 in the County Government Center in San Luis Obispo.

March 2, 2007, 10:00 a.m. Maria Vista Estates first trial begins.

March 3, 2007, 1:00 p.m. Save the Mesa – Dave Congleton speaker

March 7, 2007, 1:30 p.m. WRAC meeting at SLO Library

March 10, 2007, 9:00 a.m. to 3:00 p.m. Friends of the Library Sale Members - Friday at 7:00 p.m.

C-5) PUBLIC COMMENT ON PRESENTATIONS AND ITEMS NOT ON AGENDA

The following member of the public spoke:

Jesse Hill, Nipomo resident – handed the Board a packet of information from the Papadopoulos Report. He stated that the report has some problems and he disagrees with some of the stated facts. He admonished the Board to consider the inconsistencies.

01:13:30

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

*NOTE: 2/14/07 & 2/21/07 MINUTES WILL BE CONSIDERED AT 3/14/07 MEETING*

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

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

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01:15:12 E. ADMINISTRATIVE ITEMS

E-1) AUTHORIZE EXECUTION OF HOLLOWAY OUTSIDE USER AGREEMENT FOR SERVICE TO TRACT 2642, AN 18 LOT SUBDIVISION ON SOUTH OAKGLEN AVENUE

Jon Seitz, District Legal Counsel, reviewed the request from Carl and Debra Holloway for an outside user agreement for water and sewer service to Tract 2642. He reviewed the proposed agreement.

The Board discussed the following:

- Is the agreement a substitution for an Intent-to-Serve letter
- Is the project subject to the allocation schedule
- How are other outside District users being charged
- What are the solid waste rates for these parcels
- Clarification of E-4 on agreement?

Mr. Seitz explained that the agreement is in effect until the annexation is complete.

Carl Holloway, Nipomo resident and developer of Tract 2642 – stated that he would like to reserve the right to form a mutual water company in case the annexation is not concluded. He requested that the Board consider approving the agreement.

There was no public comment.

The Board discussed the agreement. Director Eby stated that the findings send a wrong message to the SLO County Board of Supervisors and that the agreement circumvents LAFCo procedures. He stated there should be some classification for allocation. Also, the amount charged should be 2 times the rate or else the other outside users' rate should be reduced to 1.5 times the inside-District rate. Director Trotter agreed with Director Eby about the allocation process. Director Winn stated that the 1.5 rate is temporary and asked why the others are different. Mr. Seitz stated that the situation is unique – that the other outside users are not in the annexation process.

Carl Holloway asked that the Board not use this as a no-growth measure. The development will use 15% less water than if the property were being used for agricultural purposes.

Director Winn disagreed that the process circumvents LAFCo, that LAFCo proposed the agreement.

Upon motion of Director Trotter and seconded by Director Vierheilig, the Board approved Resolution 2007-1005, as amended. Vote 4-1 with Director Eby

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

**RESOLUTION NO. 2007-1005  
A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
APPROVING AN OUTSIDE USER AGREEMENT FOR  
WATER AND SEWER SERVICES TO TRACT 2642**

The Board took a break at 11:20 a.m. and returned at 11:30 a.m.

02:21:01

## E-2) RECEIVE EVALUATIONS OF BLACKLAKE WATER BOOSTER STATION REPORTS AND DISCUSS POTENTIAL OPTIONS

Bruce Buel, General Manager, reviewed the evaluations of the Blacklake water system booster station and the potential options.

The following members of the public spoke:

Bill Nelson, Blacklake resident and member of the committee reviewing the situation – stated that the committee will be meeting the week of March 12 to discuss the matter. He asked if we are at a critical point in reference to the Master Plan and the budget.

Mr. Buel stated that Cannon Associates, (firm preparing the Master Plan) is not ready to give an evaluation of funding for this project. The budget could possibly be prepared with place holders for the cost of the project.

Jesse Hill, NCS D resident – stated that it would be more economical to merge the systems. He suggested injecting water from the Southland Wastewater Treatment Facility into the basin to help fill the depression and balance the basin.

Mr. Buel stated that the Cannon Study considers recycling water as an option.

The Board discussed having a water rate study that covers a three-year period rather than five to help evaluate the possible merger of the two water systems. Maintenance on the wells is needed now. Discussion about Blacklake rates changing and if the Town residents would be subsidizing the Blacklake system.

Possible issues to be considered include:

- Expenses of merger - Plumbing, looping, inter-tie, etc.
- Refurbishing of Well #4 to supply water for the Town system
- Money has been borrowed from the Town Division for the Blacklake water system
- Rate study necessary for equity
- No change proposed for Blacklake sewer system

Staff will bring more information to future Board meetings.

02:59:30

## E-3) SUPPORT CERTIFICATION OF LEVEL OF SEVERITY III DESIGNATION FOR NIPOMO MESA MANAGEMENT AREA BY SLO COUNTY BOARD OF SUPERVISORS

Bruce Buel, General Manager, reviewed the possible support of the Level of Severity III designation for the Nipomo Mesa Management Area by San Luis Obispo County Board of Supervisors and recommended the resolution in the Board letter.

The following member of the public spoke:

Jesse Hill, NCS D resident – stated that the District needs to carefully consider the inconsistencies in the Papadopoulos report.

The Board discussed some additional wording for the resolution.

Director Eby suggested adding this idea: “The County has in place ordinances that help mitigate the conditions as certification requires. Additional mitigation measures are not required as a result of this certification. Certification will express recognition of the County’s understanding or the severe condition we are in.”

Jon Seitz, District Legal Counsel, stated that the SLO County Board of Supervisors may consider a more stringent Environmental Impact Report on all development as a result of Level of Severity III.

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E-3) SUPPORT CERTIFICATION OF LEVEL OF SEVERITY III DESIGNATION FOR NIPOMO MESA MANAGEMENT AREA BY SLO COUNTY BOARD OF SUPERVISORS (continued)

Director Winn suggested some changes in the resolution, including:

- Moving the “Whereas” including the Papadopoulos report to another position
- Cite the EIR for LAFCo SOI
- We do not call for a moratorium
- Reference to Nipomo’s Urban Water Management Plan

Upon motion of Director Vierheilg and seconded by Director Eby, the Board directed staff to submit a letter to WRAC stating that a resolution is forthcoming.

The following member of the public spoke:

Jesse Hill, NCSO resident – stated that he thinks certification of a LOS III is dangerous; from the farmers’ perspective, it says that there is an overdraft and he feels the farmers will litigate.

Vote 5-0.

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

03:27:37

E-4) CONSIDER ADOPTING REVISIONS TO BOARD BYLAWS

The Board discussed the proposed changes in the Board By-Laws.

A motion was made by Director Eby and seconded by Director Trotter to adopt the Board By-Laws as presented in the Board letter. There was no public comment. Vote 2-3 with Directors Harrison, Vierheilg and Winn voting no.

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

A motion was made by Director Harrison and seconded by Director Vierheilg to eliminate sections 5.7 and 5.8. There was no public comment.

Vote 2-3 with Directors Eby, Trotter and Winn voting no.

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

Upon motion of Director Winn and seconded by Director Eby, the Board adopted Resolution 2007-1006 with the following changes: Add suggested wording to last sentence in 5.5 (“Once the Board of Directors takes action, dissenting directors should not create barriers to the implementation of said action.”) and eliminate 5.7 and change the number of 5.8 to 5.7. There was no public comment.

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

**RESOLUTION NO. 2007-1006  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING AMENDED BY-LAWS (2007 UPDATE)**

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E-5) CONSIDER EXECUTION OF SIX MONTH EMPLOYMENT AGREEMENT WITH BUTCH SIMMONS STARTING MAY 11, 2007

Bruce Buel, General Manager, reviewed the employment agreement with Butch Simmons. The Board discussed the proposed agreement. Upon motion of Director Trotter and seconded by Director Vierheilg, the Board unanimously approved the agreement, as amended. There was no public comment. Vote 5-0

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

04:04:28 F. MANAGER'S REPORT

Bruce Buel, General Manager, reviewed the items in the Board letter and added the following information:

- Hetrick waterline replacement is wrapping up.
- Willow Road funding discussion with the County. Possible "Community Facilities District" project. Board may want to consider sewer upgrades.
- Ms. Watkins followed SP Maintenance on February 27, 2007, to observe the street sweeping company's procedures. A report will be made at a future meeting.
- Coastal Monitoring Well – Geohydrologist, Steve Buckman, reported that the well was artesian and he was unable to test at this time. He will return to the test site next week.
- An application for an Outside User Agreement was received last week for the Craig property. The matter will be brought to the Board in March.

There was no public comment.

04:09:14 G. COMMITTEE REPORTS

Director Vierheilg reported that the Finance, Audit and Personnel Committee met January 31, 2007. The Minutes given in Item E-5 accurately presented what was discussed. There will be another committee meeting March 7, 2007.

04:10:50 H. DIRECTORS' REQUESTS TO STAFF

Director Winn

February 20, 2007, attended the second of two visioning meetings for SLO County Board of Supervisors. He will distribute the interesting and informative model used in that process. There was goal setting, naming strengths and weaknesses. A questionnaire was sent out to key staff members to get feedback.

He will meet with Mr. Buel, Supervisor Achadjian and possibly Mr. Harrison to talk about parks. He would like to urge the County to put in more monitoring wells and possibly use NCSD's SCADA system to obtain more accurate information.

At the BOS meeting, one supervisor stated that the budget numbers were set last fall and it is too late to change anything.

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the items to be addressed 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.

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I. CLOSED SESSION ANNOUNCEMENT (continued)

- 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. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; NCSO VS. SLO COUNTY (CASE NO. CV 070066)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public present to comment on the Closed Session items.

K. ADJOURN TO CLOSED SESSION

The Board went into Closed Session at 1:32 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 2:10 p.m.

Jon Seitz, District Legal Counsel, announced that the Board heard updates on all the items listed above. The Board took no reportable action.

ADJOURN

President Winn adjourned the meeting at 2:12 p.m.

➤ **THE FOLLOWING SPECIAL BOARD MEETING IS MARCH 14, 2007. TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Accept Hetrick Project
- Award Design of Shop Upgrade
- Award Parks Survey

➤ **THE NEXT SPECIAL BOARD MEETING IS MARCH 21, 2007. TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Southland WWTF Master Plan