

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 42 - Years of Service 1965 - 2007*

## MINUTES

**MARCH 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.

00:00:50

#### B. ROLL CALL

At Roll Call, the following Board members were present:  
Directors Harrison, Eby, Trotter and Winn. Director Vierheilg was absent.

00:01:12

#### C. PRESENTATIONS AND PUBLIC COMMENT

##### C-1) LARRY KRAEMER OF CANNON ASSOCIATES

Larry Kraemer of Cannon Associates gave the Board an update on the Water and Sewer Master Plan development. A set of maps and tables were given to the Board to illustrate the build-out assumption. A copy is available for viewing in the District office. He reviewed the following timeline:  
April – models finished and projects proposed  
May – prioritization discussion  
June – workshop  
July – adopt and finalize

There was no public comment. The Board thanked Mr. Kraemer for his report.

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

NCSD Utility Supervisor Dan Migliazzo updated the Board on Utility Department operations. The flushing program is progressing. As the lines are being flushed, valves and hydrants are being repaired and replaced. The repairs at the Southland WWTP Pond #4 are complete. The liner at the Black Lake WWTP Basin #3 will be replaced. The electric panel is being replaced at the BL Well #4. Specifications are being prepared for the booster pump at Black Lake. The telemetry system for the levels at the wet wells will be coming on line this year.

There was no public comment. The Board thanked Mr. Migliazzo for his report.

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C-3) NCSD GENERAL MANAGER BRUCE BUEL REGARDING AB885 REGULATIONS  
 Bruce Buel, NCSD General Manager, reviewed the State’s proposed on-site waste management regulations. Mike Nunley from Boyle Engineering explained about e-coli and coliform. Mr. Buel explained some of the pertinent points of the proposed regulations. There was some Board discussion.  
 The following member of the public spoke:  
Bill Nelson, NCSD resident – gave an example of some poor engineering in the area where he lived in the past (where he served as chairman of the Advisory Committee of the Nevada County Sanitation District).

C-4) DIRECTORS’ ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST  
Director Eby  
 Parks Commission met Monday, March 26, 2007  
 SCAC elected new officers Monday evening, March 26, 2007. There are still some positions open.  
Director Harrison  
 The Fuel Reducing Counsel with APCD will be holding a chipping of waste wood during week of June 30, 2007.  
Director Winn  
 APCD has determined that the wind blows sand containing silicon.  
 TDC Committee meeting - SLO new Government Center March 28, 2007, at 3:00 pm  
 A planning commission member stated that every parcel can be developed. When asked about water availability, the commissioner stated “There is always water.”  
 SLO COG meeting Thursday, March 29, 2007.  
 Orchid Show – Friday, Saturday and Sunday – March 30, 31 and April 1.  
 WRAC will meet Wednesday, April 4, 2007, 1:30 p.m. to discuss whether to recommend Level of Severity III to the SLO Board of Supervisors.  
 Conservation Subcommittee will be meeting Monday, April 9, 2007, 12:00 p.m.  
 SCAC met Monday, March 26, 2007  
 Clean Up Week April 23<sup>rd</sup> - 27<sup>th</sup> – Pick up of large amounts will be on regular trash collection day.

C-5) PUBLIC COMMENT ON ITEMS NOT ON AGENDA  
 There was no public comment.

01:06:17

- D. CONSENT AGENDA
  - D-1) APPROVE WARRANTS
  - D-2) APPROVE BOARD MEETING MINUTES  
Approve Minutes of February 28, 2007, Regular Meeting
  - D-3) AUTHORIZE EXECUTION OF AGREEMENT WITH LAURA PENNEBAKER FOR TEMPORARY PART TIME STUDENT INTERNSHIP FOR OFFICE ASSIGNMENTS
  - D-4) REJECT NACIMIENTO WATER PROJECT AS SUPPLEMENTAL WATER SUPPLY AND ADVISE COUNTY
  - D-5) ACCEPT TRACT 2619 WATER AND SEWER IMPROVEMENTS (MULTIPLE FAMILY COMPLEX AT 1 AVENIDA DE AMIGOS
  - D-6) AUTHORIZE EXECUTION OF AMENDMENT OF SOUTHLAND WASTEWATER FACILITY MASTER PLAN AGREEMENT WITH BOYLE ENGINEERING

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D. CONSENT AGENDA (continued)

Staff pulled Item D-5 from the agenda.

Director Eby asked to pull Items D-4 and D-6 for separate consideration.

The following member of the public spoke:

John Snyder, Nipomo resident – stated that perhaps the Board should rethink dismissing the Nacimiento water project for a supplemental water supply.

Upon motion of Director Eby and seconded by Director Harrison, the Board unanimously approved Items D-1, D-2 and D-3 of the Consent Agenda. Vote 4-0

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

ITEM D-5

Upon motion of Director Eby and seconded by Director Harrison, the Board unanimously agreed to continue Item D-5 to a future meeting. Vote 4-0

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

ITEM D-4

Director Eby asked about the 2,100 AFY limited water supply from the Nacimiento Project (NWP).

Mike Nunley, Boyle Engineering – stated that, as the report pointed out, the current deliverable Reserved Capacity of 2,148 AFY of water could be transported through a 12-inch diameter pipe. However, Mr. Hollenbeck of the SLO County Public Works Department indicated the last reach of the NWP could be upgraded to provide up to 6,000 AFY of additional capacity if an interested agency paid for design and construction revisions. Director Eby asked that the report show exactly why the NWP was eliminated as a possible supplemental water supply for NCSD. Upon motion of Director Eby and seconded by Director Trotter, the Board agreed to adopt staff’s recommendation to determine that the NWP is not suitable for further consideration and to advise the County accordingly. Vote 3-1 with Director Harrison voting no.

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

ITEM D-6

Director Eby asked why the District needed the information noted in the added scope of work in the budget revision request. Mr. Buel explained.

Director Eby made a motion to adopt the recommendation from staff. The motion died for a lack of a second.

The Board discussed the matter further.

Mike Nunley, Boyle Engineering, explained more about the project.

Upon motion of Director Eby and seconded by Director Winn, the Board authorized execution of the amendment to the Southland WWTF Master Plan Agreement to add another growth scenario, address the division of upgrade costs between existing and

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D. CONSENT AGENDA (continued)

future users, re-publish a Final Master Plan and participate in an extra NCSD Board meeting. There was no public comment. Vote 3-1 with Director Harrison voting no.

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

The Board took a break at 10:35 a.m. and resumed the meeting at 10:58 a.m.

Tape started  
over  
00:00:00

E. ADMINISTRATIVE ITEMS

**The Board chose to consider Item E-3 out of sequence to accommodate the visitors from LAFCo.**

00:00:40

E-3) CONSIDER ADOPTION OF RESOLUTION SUSPENDING PROCESSING OF FURTHER ANNEXATION APPLICATIONS AND REVIEW ANNEXATION POLICY ISSUES

Bruce Buel, General Manager, reviewed the Board’s previous discussions for “suspending processing of subsequent annexation requests until a supplemental water project is completed” and the agreement to discuss the benefits and detriments of new mutual water companies BEING formed. Mr. Buel explained the draft resolution prepared by District Legal Counsel.

Jon Seitz, District Legal Counsel, explained the policy issue being considered.

Paul Hood, LAFCo Executive Officer - spoke to the regarding LAFCo policies and procedures. When the Sphere of Influence was set by LAFCo almost three years ago, it was determined that there would be no annexations until a supplemental water supply was determined.

The Board discussed the matter with Mr. Hood and staff.

- How Outside User Agreements fit in with LAFCo’s policy {Mr. Hood answered that the Outside User Agreement is seen as a bridge to annexations until a supplemental water supply is found.}
- How mutual water companies or public agencies supplying water {Mr. Hood answered that approving new mutual water companies is detrimental to NCSD providing water to a project within the SOI. Help would be needed from the County to not approve developments outside the SOI that would rely on mutual water companies. }
- How to answer developers until a supplemental water supply is available {Mr. Hood stated that it would not be prudent for NCSD to provide water when it is in an overdraft situation. The County needs to take its Level III Severity into consideration when approving subdivisions.}
- If the District passes this proposed resolution, developers would immediately apply for a mutual water company. There seems to be a conflict when an outside user agreement is approved and the District is asking the County to certify a Level III Severity.

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E-3) CONSIDER ADOPTION OF RESOLUTION SUSPENDING PROCESSING OF FURTHER ANNEXATION APPLICATIONS AND REVIEW ANNEXATION POLICY ISSUES (continued)

- Perhaps the threat of mutual water companies is not as serious because of the cost, etc.
- Conservation measures are not being taken now.

There was no public comment.

Upon motion of Director Trotter and seconded by Director Harrison, the Board agreed to reject the proposed resolution. Vote 3-1 with Director Eby voting no.

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

Next, the Board discussed tracking of annexation water allocations.

Mr. Seitz stated that there would be no annexations approved by LAFCo until a supplemental water supply is available. Outside users will be allocated.

Upon motion of Director Trotter and seconded by Director Eby, the Board agreed to direct staff to develop a mechanism to include any annexation (including the two pending annexations (Holloway and Craig)) in the allocation process tracking the quantity of water and will be debited against the year in which the annexation agreement is approved. Vote 4-0.

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

Director Trotter stated he was frustrated that mutual are not obligated to help overcome the overdraft and to participate in supplemental water. He asked if there was a mechanism to help protect the groundwater basin.

Mr. Hood stated that LAFCo is not notified when a mutual water company is formed.

David Church, LAFCo Deputy Executive Officer – stated that the County has a broad conditioning authority and only grants a mutual water company when a subdivision is requested.

***The Board considered Item E-1 next.***

01:00:07

E-1) AUTHORIZE STAFF TO RE-PLUMB BLACK LAKE WELL #4

Bruce Buel, General Manager - reviewed the Board’s previous discussions concerning the proposed re-plumbing of the Black Lake Well #4.

The Board discussed the project with staff.

The following members of the public spoke:

Bill Nelson, Chairman of the NCSA Activities Committee at Black Lake – stated that there was a unanimous agreement to merge the Black Lake water system with the Town Division’s water system. They agreed that it would be in the best interest of all and they would leave it up to NCSA to proceed in the most cost-effective manner.

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E-1) AUTHORIZE STAFF TO RE-PLUMB BLACK LAKE WELL #4 (continued)

Upon motion of Director Trotter and seconded by Director Harrison, the Board unanimously agreed to direct staff to proceed with equipping Black Lake Well #4 and the transfer pump. Vote 4-0

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

E-2) AUTHORIZE AMENDMENT TO BOYLE SUPPLEMENTAL WATER OPTIONS EVALUATION AGREEMENT

Bruce Buel, General Manager, reviewed the research into potential supplemental water project options. An eighth alternative is the potential purchase of "surplus" water from CCWA or one or more CCWA members.

Mike Nunley, Boyle Engineering's Supplemental Water Supply Project Manager, explained the budget revision request.

Upon motion of Director Eby and seconded by Director Harrison, the Board unanimously agreed to authorize the President to execute the amendment to Boyle Supplemental Water Project Options Evaluation Agreement and directed staff to work with Boyle/SAIC to implement the additional work. There was no public comment. Vote 4-0.

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

**At 12:20 p.m. the Board chose to go into Closed Session.**

01:20:44

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following items for the Closed Session:

1. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION GC§54956.9 SMVWCD VS NCSA SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.
2. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION GC§54956.9 MARIA VISTA VS. NCSA CASE NO. CV 040877, MARIA VISTA VS. NCSA CASE NO. CV 061079, AND MARIA VISTA VS. LINDA VISTA FARMS, NCSA 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. NCSA (CASE NO. CV060349)
4. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; NCSA VS. SLO COUNTY (CASE NO. CV 070066)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

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

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at approx. 12:20 p.m.

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Tape started  
over  
00:00:00

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

The Board came back into Open Session at 1:20 p.m. There was no public present to hear the announcements.

Jon Seitz, District Legal Counsel, announced that the Board heard an update on and discussed all the items listed above. There was no reportable action.

**The Board heard Items E-4, E-5, F, G and H next.**

00:00:56

E-4) PREVIEW DRAFT ORDINANCE AMENDING ALLOCATION POLICY AND SET HEARING FOR INTRODUCTION

Bruce Buel, General Manager, reviewed the steps taken in preparing a draft ordinance for Board consideration. The Board discussed the changes and suggested some edits. There was no public comment.

Upon motion of Director Harrison and seconded by Director Eby, the Board unanimously agreed to set a Public Hearing for April 25, 2007, to introduce the draft ordinance with edits for first reading and directed staff to circulate the draft ordinance with edits to interested parties. Vote 4-0.

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

00:11:36

E-5) ACCEPT CLASSIFICATION STUDY, AUTHORIZE RECRUITMENT OF NEW POSITIONS, AND SET HEARING TO REVISE PERSONNEL POLICY

Bruce Buel, General Manager, stated that the District received an email from Georg Kramer of Koff Associates this morning. Mr. Buel asked to continue this item until the next meeting. There was no public comment.

Upon motion of Director Harrison and seconded by Director Eby, the Board unanimously agreed to continue this item until the April 11, 2007, Board meeting. Vote 4-0.

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

00:12:35

F. MANAGER'S REPORT

Bruce Buel, General Manager, presented the information in the Board letter and added the following update.

Celeste Whitlow will begin employment, in May, with the District as the Water Conservation Outreach Specialist.

Director Eby asked about the NMMA basin management study.

Mr. Buel stated that SAIC was working on the management study. Mr. Snyder was the only applicant to serve as ag representative but he did not meet the court's requirements.

The Board asked about the cost of the basin groundwater monitoring and SCADA monitoring equipment.

00:23:16

G. COMMITTEE REPORTS

There were no committee reports.

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00:25:14

**H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS**

Director Winn asked for a list of signatories for the stipulated judgment.

Should we agendaize the Draft EIR for Santa Margarita cultural residential cluster development, supplement to the Santa Margarita Ranch Project – issues with WRAC and what role the Board of Supervisors will have if a mutual water company is created as planned? Mr. Buel suggested that the District wait until action by WRAC in April. Perhaps a discussion of SB 610 and 221 could be on a future agenda.

Director Eby asked that when the Craig outside user agreement is being considered, to be sure the agreement states a finding that we have adequate water to serve. How does that square with the County's Level III Severity?

Director Winn is planning to attend a continuing education session at UCLA on April 13 concerning the new forms of the Mello-Roos Act. He will bring back information to the Board.

He suggested using a tracing compound in the Wastewater Treatment Facility to see how much water migrates east or south.

The Board of Supervisors met Tuesday, March 27, 2007. He asked for a clarification regarding Conflict of Interest. Mr. Seitz read from the legislation.

00:41:46

**ADJOURN**

President Winn adjourned the meeting at 2:01 p.m.

**➤ THE FOLLOWING SPECIAL BOARD MEETING IS APRIL 11, 2007.****TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Introduce Allocation Ordinance
- Consider Craig Outside User Agreement
- Initiate Process for Approval of FY07-08 Street Landscape Maintenance District No. 1 Charges