

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 42 - Years of Service 1965 - 2007

MINUTES

MAY 9, 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**

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.

B. ROLL CALL

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

00:01:16

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) COMMANDER BASTI OF SOUTH COUNTY SHERIFF'S OFFICE

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

In the two months since the last report, twelve gang members were taken to jail.

There will be extra staffing for the Lopez Lake summer visitors and the upcoming graduation.

May 21, 2007 – There will be a Gang Force Presentation at the SCAC meeting, 6:30 p.m. in the NCSO Board meeting room.

There was no public comment.

The Board thanked Commander Basti for his presentation.

00:03:15

C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

Battalion Chief Bill Fisher reviewed a list of activities of CAL FIRE on the Nipomo Mesa. The list is available for viewing in the District office. There was no public comment. The Board thanked Battalion Chief Fisher for his presentation.

00:05:38

C-4) MIKE NUNLEY OF BOYLE ENGINEERING

This item was taken before C-3.

Mike Nunley, Boyle Engineering's Project Manager for the District's Supplemental Water Project, gave the Board an update on the progress: evaluation of water supply alternatives. He stated that the Technical Memorandum #1 (constraints' analysis of the various supplemental water supply alternatives) is on track and will be submitted in draft form for the June 27th meeting. Permitting constraints have been received from Padre Associates. A status meeting with SAIC was attended with Mr. Buel. The 2007 updated groundwater depth information will be reported. Boyle has been reviewing pipeline capacity for CCWA and excess capacity options with San Luis Obispo County. Mr. Nunley will be meeting Friday with legal counsel about the legal constraints with several of the alternatives. The desalination alternative presentation will be Wednesday, May 16, 2007. Boyle has been reviewing information with ConocoPhillips concerning their cooling water.

There was no public comment.

The Board thanked Mr. Nunley for his presentation.

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

00:09:30

C-3) SAMMY THE STEELHEAD ON BEHALF OF SLO COUNTY PUBLIC WORKS

Jill Falcone, from the San Luis Obispo Public Works Department, made a presentation of County efforts to clean and protect natural resources. If anyone has questions, they may call 788-2767. The Hotline number is 781-5544. Sammy the Steelhead accompanied Ms. Falcone. The Board discussed the program with Ms. Falcone. She stated that Creek Day will be September 29th this year. All are encouraged to participate. There was no public comment.

The Board thanked Ms. Falcone and Sammy for the presentation.

00:37:00

C-5) NCSD UTILITY SUPERVISOR DAN MIGLIAZZO RE SOUTHLAND SHOP

Faith Watkins presented information about the possibility of using modular units for the Southland shop upgrades rather than building a permanent structure. A freeway ramp might be built where the shop is planned. She stated that it would be more economical to have moveable units to accommodate for the ramp. There was no public comment.

00:45:29

C-6) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

The following Board members presented information of District & community interest:

Director Eby

Rancho Nipomo Heritage Days Concert and Barbeque - May 19th 6:30 -10:00 p.m. at the Dana Adobe. \$35.00 tickets available.

Director Harrison

Rotary Club will be barbequing during the day for Heritage Days.

Rotary Club will be hosting a golf tournament at Woodlands May 11, 2007.

Director Winn

May 9, 2007, 3:00 p.m. TDC Sub-committee for the SLO Board of Supervisors

May 10, 2007 - Planning Commission meeting

May 12, 2007 – Nipomo Incorporation Committee for Education in NCSD Board room 9:00 a.m.

May 13-15, 2007 – Directors Winn and Vierheilig and Mr. Buel will be attending the Special District's Annual Legislative Days in Sacramento

May 16, 2007 – Desalination workshop and discussion of the Southland shop upgrade

May 12, 2007 – Coast Side 20-50 long-range planning put on by APCD, SLOCOG and others will be meeting at Pismo Beach Veterans building 9:00 to 1:00

SCAC will meet Monday, May 21, 2007, 6:30 p.m. instead of the usual 4th Monday because of Memorial Day weekend.

May 23, 2007, 3:00-5:00 p.m.– TDC Sub-committee

May 23, 2007, 3:00-5:00 p.m. – IRWRM – Proposition 50 Phase I information and public input for grant funding

May 24, 2007, Planning Commission will be considering the RMS determining whether or not a Level of Severity III should be certified for the Mesa.

00:51:40

C-7) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

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There was no public comment.

Nipomo Community Services District
REGULAR MEETING
MINUTES

The Board took a break at 9:53 a.m. and returned at 10:05 a.m.

Bruce Buel, General Manager, introduced Laura Pennebaker, the new intern, a.k.a. Sammy the Steelhead (for the day).

00:52:11

D. CONSENT AGENDA

- D-1) APPROVE WARRANTS
- D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of April 25, 2007 Meeting
- D-3) APPROVE ENGINEER'S REPORT FOR FY07-08 LANDSCAPE MAINTENANCE DISTRICT #1 ASSESSMENTS

RESOLUTION NO. 2007-1012
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT GRANTING APPROVAL OF THE ANNUAL ENGINEER'S LEVY REPORT FOR THE STREET LANDSCAPE AND MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2007-2008

RESOLUTION NO. 2007-1013
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DECLARING ITS INTENTION TO LEVY ANNUAL ASSESSMENTS FOR THE STREET LANDSCAPE AND MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2007-2008

- D-4) AUTHORIZE CIRCULATION OF PARKS FUNDING DISTRICT FORMATION REQUEST FOR PROPOSAL
- D-5) RECEIVE REPORT ON CLEAN-UP WEEK RESULTS

There were two corrections to the Minutes of April 25, 2007 (Items E-3 and G). Upon motion by Director Eby and seconded by Director Vierheilg, the Board unanimously approved the Consent Agenda, as amended. Vote 4-0.

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

00:56:29

E. ADMINISTRATIVE ITEMS

- E-1) CONSIDER STAFF PROPOSAL TO ADDRESS GRAFFITI REMOVAL AND TO SEEK ACTIVATION OF GRAFFITI REMOVAL AUTHORITY

Bruce Buel, General Manager, reviewed the proposal to activate graffiti removal authority. The Board discussed the draft ordinance. The costs and how to fund them need to be defined.

The following member of the public:

Mark Wampler, painting contractor from Oceano, stated that he performs on-site color matching. It is best to remove before 72 hours. He stated that he disagrees with a separate funding source. The importance is to make tagging disappear.

The Board discussed different aspects of the graffiti removal authority.

- With graffiti – time is of the essence. It needs to be removed before it cures.
- Staff time is uncertain
- Costs shared with property owners or the County
- Graffiti damages the public interest

Nipomo Community Services District
REGULAR MEETING
MINUTES

E-1) CONSIDER STAFF PROPOSAL TO ADDRESS GRAFFITI REMOVAL AND TO SEEK ACTIVATION OF GRAFFITI REMOVAL AUTHORITY (continued)

Jon Seitz, District Legal Counsel, explained that the structure of the solid waste removal does not include graffiti removal. He stated that LAFCo requires knowing the source of the funds to pay for the service.

The Board directed staff to investigate how the process works:

- Administration overhead
- People out of town when graffiti occurs on their property
- Agreement with the Sheriff
- County code enforcement agreement
- Occurrences on County or other public property
- Cal Trans bridge
- Minimum expectations from LAFCo for a budget

02:12:04

E-2) CONSIDER EUCALYPTUS GARDENS INTENT-TO-SERVE APPLICATION FOR AN 81-UNIT MULTI-FAMILY COMPLEX AT 680 HILL STREET

Bruce Buel, General Manager, reviewed the request from Kathleen Fairbanks for an eighty-one unit low income, multi-family project. A new concept of the project was given to the Board.

The following member of the public spoke

Ignacio Rincon, Global Premier Development and representative for the applicant spoke to the Board concerning the project. He stated that funding from the State for low-income would be available if built within three years. Allocation phasing of the project may cause the project not to receive a tax credit.

Jon Seitz, District Legal Counsel, stated that the Board may reallocate at the beginning of the second quarter or half way through the fourth quarter.

The Board discussed the allocation process and the project.

Upon motion by Director Harrison and seconded by Director Vierheilg, the Board unanimously agreed to table this item until the next meeting to give counsel time to research the allocation. Vote 4-0.

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

02:36:14

E-3) CONSIDER BUTTERFLY LANE INTENT-TO-SERVE APPLICATION FOR 8-UNIT MULTI-FAMILY COMPLEX AT 365 BUTTERFLY LANE

The following member of the public spoke:

Greg Nester, part owner and developer of the two projects being considered as E-3 and E-4, stated that he has been working diligently on the two projects. The latest version of the projects shows single-family homes. Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously agreed to table E-3 until the next meeting when current drawings of the project can be provided. Vote 4-0.

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

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

02:42:45

E-4) CONSIDER CHESTNUT VILLAS INTENT-TO-SERVE APPLICATION FOR MIXED USE COMPLEX AT 166 & 186 NO. THOMPSON AVENUE

There was no public comment. Upon motion by Director Harrison and seconded by Director Vierheilg, the Board unanimously agreed to table E-4 until the next meeting when current drawings of the project can be provided. Vote 4-0.

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

02:43:13

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following items to be heard 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; NCSO VS. SLO COUNTY (CASE NO. CV 070066)
4. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; MARIA VISTA ESTATES V. NCSO ET AL (CASE NO. ND07-10362RR IN UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT, NORTHERN DIVISION)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:00 p.m.

02:44:00

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back to Open Session at 1:40 p.m. Jon Seitz, District Legal Counsel, announced the following:

There was no public present. The Board heard an update on the items listed above. Mr. Jim Markman, Special Water Counsel, appeared by telephone. The Board gave instructions to legal counsel. There was no reportable action.

02:44:52

E-5) DISCUSS STATE OF CALIFORNIA PHASE II PROPOSITION 50 GRANT COMPETITION

Bruce Buel, General Manager, reviewed the recently published "Grant Program Guidelines and Proposal Solicitation Packages" from the Water Resources Control Board (SWRCB) and the Department of Water Resources (DWR).

President Winn explained further that the IRWMP is a regional plan. To receive funding, it must be genuinely regional. The four projects that were in the past application were: Nacimiento, Los Osos, Lopez Dam upgrade, and NCSO.

Nipomo Community Services District
REGULAR MEETING
MINUTES

E-5) DISCUSS STATE OF CALIFORNIA PHASE II PROPOSITION 50 GRANT COMPETITION (continued)

Upon motion by Director Eby and seconded by Director Vierheilig, the Board unanimously agreed to direct the President and the General Manager to argue for inclusion of NCSD's supplemental water project in the submittal with the following criteria:

- Should request some funding from the Phase II Grant
- Will not oppose County submittal
- Request consideration for inclusion in the Prop 84-1A round

There was no public comment. Vote 4-0.

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

03:05:13

E-6) INITIATE FORMATION OF PARKS CITIZENS ADVISORY SUB-COMMITTEE

Bruce Buel, General Manager, explained that the Parks Committee recommended that the Board form a seven-member Parks Citizens Advisory Sub-Committee and initiate the process to appoint five members at the Sub-Committee at the June 27th meeting. This would be a standing committee subject to the Brown Act. The Board discussed the draft selection criteria as presented in the Board packet. Upon motion by Director Vierheilig and seconded by Director Harrison, the Board unanimously approved the Parks Citizens Advisory Sub-Committee Selection Criteria, as amended.

PARKS CITIZENS ADVISORY SUB-COMMITTEE SELECTION CRITERIA

- I. CRITERIA FOR 5 IN-DISTRICT MEMBERS
 - A. Resided in District for at least five years
 - B. Cannot reside or own property within 500' of the boundary of a park or land under consideration to become a park
 - C. Not a member of NCSD
 - D. Some history of public or civic service in Nipomo
 - * Previous experience in Parks and Recreation a plus
- II. CRITERIA FOR 2 SOI MEMBERS
 - A. Resided in current SOI for at least five years
 - B. Cannot reside or own property within 500' of the boundary of a park or land under consideration to become a park
 - C. Not a member of NCSD
 - D. Some history of public or civic service in Nipomo
 - * Previous experience in Parks and Recreation a plus

There was no public comment. Vote 4-0.

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

03:31:07

E-7) RECEIVE REQUEST FROM DIRECTOR HARRISON TO REVIEW MEETING ROOM USE POLICY AND DETERMINE WILLINGNESS TO SET ITEM

Director Vierheilig recused himself for this item.
Director Eby asked legal counsel about conflict of interest.
Jon Seitz, District Legal Counsel, explained that if a director is not being paid, there is no financial conflict. There may be a "common law" conflict.
Director Eby recused himself.
There was no quorum to proceed. The item was tabled to a future meeting.

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

The Board took a break at 2:36 p.m. and returned at 2:48 p.m.

03:40:15 F. MANAGER'S REPORT

Bruce Buel, General Manager, presented the Manager's Report as written. Director Harrison asked about the Craig agreement. Mr. Buel stated that it will be addressed at the next meeting. There was no public comment.

03:48:02 G. COMMITTEE REPORTS

1. April 18, 2007, Finance Audit & Personnel Committee Meeting
2. April 30, 2007, Parks Committee Meeting
3. May 2, 2007, Finance, Audit & Personnel Committee Meeting

The Committee Reports were accepted, as presented.

03:51:01 H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby explained the process for choosing the replacement for Pat Beck, the Deputy Director for Planning. There were four candidates. The results will be revealed Friday, May 11, 2007.

ADJOURN

President Winn adjourned the meeting at 3:03 p.m.

- **THE FOLLOWING REGULAR BOARD MEETING IS MAY 23, 2007.
TENTATIVELY SCHEDULED ITEMS INCLUDE:**
 - Adopt Personnel Policy Amendments
 - Receive Black Lake Pond #3 Liner Replacement Design
 - Receive SAIC's 2007 Nipomo Mesa Ground Water Update

- **THE FOLLOWING SPECIAL BOARD MEETING IS MAY 16, 2007.
TENTATIVELY SCHEDULED ITEMS INCLUDE:**
 - Receive Presentation regarding Desalination Technology
 - Review Status of Southland WWTF Discharge
 - Consider Scoping Southland WWTF Upgrade Project