

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 42 - Years of Service 1965 - 2007

MINUTES

AUGUST 8, 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. GENERAL MANAGER**
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.

00:00:30

B. ROLL CALL

At Roll Call, all directors were present.

00:00:50

C. PRESENTATIONS AND PUBLIC COMMENT

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

Commander Martin Basti presented information concerning Sheriff's activities on the Nipomo Mesa for the past month.

The bank robbery was resolved.

Property was removed from cars that were unlocked. A suspect with expired license was found with much of the stolen property.

The budget has allowed for one more deputy and one clerk. Eight deputies were hired to fill retirements.

School will be starting soon. The Sheriff's Department and the CHP will be out in force to protect the children.

The Board thanked Cmdr. Basti for his presentation.

C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

Battalion Chief Bill Fisher presented information concerning CAL FIRE activities on the Nipomo Mesa. The activity report is available for viewing in the District office.

C-3) DON PHILLIPS AND RALPH BALDIVIA OF RAYNE WATER CONDITIONER CO.

Ralph Baldivia from Rayne Water Conditioner Co. presented information on water softener technology. He has been a representative in the Nipomo to Five Cities and SLO Country Club area since 1979. He stated that this area has about 22 grains of hardness. He explained that the canister program does not discharge sodium into the groundwater. The number of times the canister is exchanged depends on a family's usage. The usual is about 2 times per month at approx. \$35.00 per month. The salt is now taken to Laguna Sanitation.

Dallas Davila, sales manager for Rayne Water, stated that he wants to work with the community to prevent the salt from being discharged into the groundwater.

The Board thanked Mr. Baldivia and Mr. Davila for their presentations.

C-4) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

Announcements from Directors - Items of District & Community Interest

Director Trotter

The Blacklake group (headed by Bill Nelson) plans to announce today that they agree to the Blacklake merger. There will be a meeting September 25, 2007.

Director Vierheilig

Nipomo Native Garden Plant Sale will be Sunday, October 7 at Mid State Bank from 9:00 a.m. to 3:00 p.m. There will be native plants, drought-tolerant and non-invasive plants available.

Mike Nunley, Boyle Engineering Project Manager for evaluating the condition of the groundwater underneath the Southland Wastewater Treatment Facility, made a presentation on the progress of the project. He met with Fugro West Co. to assess the fate of the mound of effluent under the wastewater treatment facility. He met with Sorrell Marks of the Regional Water Quality Control Board to determine the requirements of the Regional Board for upgrading the facility and the groundwater analysis. Boyle is also looking at use of water from facility for irrigation.

The Board thanked Mr. Nunley for his presentation.

C-5) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Rachel Smith, soon-to-be Senior at Nipomo High School and Vice President of her class, is looking forward to serving on the Parks Sub-Committee. She has some ideas for parks that she is excited about sharing.

Ernie Thompson, NCSD resident, commented on the letter from Celeste Whitlow. He appreciated the information on conserving water. With all the water problems Nipomo is having with water, why are we still issuing building permits?

Bruce Buel, General Manager, responded to Mr. Thompson's question. The SLO County issues building permits. NCSD worked with the County Board of Supervisors to certify a Level of Severity III on the Nipomo Mesa. The County has designated Nipomo as the primary growth area. There are two items on the agenda today to discuss a planning document from SLO County. Also, on September 12, 2007, the NCSD Board will be discussing an analysis that may trigger emergency water supply phases.

Jon Seitz, District Legal Counsel, added that SLO County has adopted Ordinance 3090 which is a prohibition on land use ordinance amendments that could increase density until a supplemental water supply is available on the Mesa. The ordinance also addresses the Supplemental Water Impact Fee. The NCSD Board has adopted an ordinance addressing water allocations which allows development plans using only 34.3 acre-feet per year. The NCSD also implemented a Supplemental Water Impact Fee that all development must pay to provide revenue for the supplemental water project.

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00:52:30

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of July 25, 2007 Meetings

D-3) ACCEPT NEWDOLL TRACT 2939 WATER AND SEWER IMPROVEMENTS AT
365 SOUTH FRONTAGE ROAD

RESOLUTION NO. 2007-1033
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER AND SEWER IMPROVEMENTS
FOR TRACT 2939 (NEWDOLL)

D-5) ACCEPT BEAUCHAMP WATER AND SEWER IMPROVEMENTS FOR
APN 090-161-012 (CO 06-0082) SOUTH OAKGLEN

RESOLUTION NO. 2007-1034
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER AND SEWER IMPROVEMENTS
FOR CO 06-0082 (BEAUCHAMP)

The Board asked to pull Item D-4 for separate consideration. The Board discussed some changes in the Minutes for the July 25th meeting and in the resolution in Item D-5. Upon motion by Director Eby and seconded by Director Vierheilig, the Board unanimously approved Items D-1, D-2, D-3, and D-5, as amended. There was no public comment. Vote 5-0.

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

D-4) REVISE POLICY REGARDING USE OF MEETING ROOM

The Board discussed the Meeting Room Policy and made some changes.

The following member of the public spoke:

Ernie Thompson, NCSD resident – stated that the deposit often does not cover the damage that is sometimes made on the property. He stated that the deposit should be raised.

Upon motion by Director Vierheilig and seconded by Director Trotter, the Board unanimously approved Resolution 2007-1034, as amended. Vote 5-0.

RESOLUTION NO. 2007-1035
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
REVISING ITS BOARD ROOM POLICY

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

The Board took a break at 10:15 a.m. and returned at 10:25 a.m.

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01:13:53

E. ADMINISTRATIVE ITEMS

E-1) APPOINT MEMBERS TO PARKS CITIZENS ADVISORY COMMITTEE

Bruce Buel, General Manager, explained that the Board has selected five nominees to serve on the Parks Citizens Sub-Committee. There was no public comment. Upon motion by Director Eby and seconded by Director Vierheilg, the Board unanimously agreed to approve the appointees, as follows: Rachel Smith, Peg Miller Donna Mills, Julie Steiner, and Ben Trogdon. There was no public comment. Vote 5-0.

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

01:21:37

E-2) ADOPT POLICY REGARDING CHARGES FOR SPECIAL MEETINGS HELD AT THE REQUEST OF APPLICANTS

Bruce Buel, General Manager, reviewed the proposed policy regarding charges for special meetings.

The Board discussed the matter. There was no public comment. Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously adopted Resolution 2007-1035. Vote 5-0.

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

**RESOLUTION NO. 2007-1036
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A POLICY REGARDING CHARGES
FOR SPECIAL MEETINGS HELD AT THE REQUEST OF APPLICANTS**

01:23:30

E-3) REVIEW AFFORDABLE HOUSING ORDINANCES FINAL ENVIRONMENTAL IMPACT REPORT

Bruce Buel, General Manager, explained that the San Luis Obispo County Affordable Housing Ordinances Final Environmental Impact Report (FEIR) has been presented by the County Planning Department. The Board of Supervisors will be considering the report soon. The Board discussed the report and the impacts it would have on the District.

Jon Seitz, District Legal Counsel, explained that the analysis may have gone back to 2005 or early 2006. There have been some changes since then. May 2006, the County Board of Supervisors adopted Ordinance 3090 which puts a limitation on general land amendments that put an increase of non-ag water. The new proposed densities would increase the existing water demands on the property. Ordinance 3090 puts a prohibition on non-ag water increased densities until the delivery of supplemental water. On July 26, 2007, the Board of Supervisors certified a Level of Severity III.

There was no public comment.

The Board discussed the report. The Board agreed that there are inconsistencies and incorrect statements throughout the document. It is not consistent with the General Plan. The County needs to address Ordinance 3090, Level of Severity III, and the CEQA findings. The Board asked Celeste Whitlow, NCSA's Conservation Specialist about per capita water use per day. Ms. Whitlow answered that on an average Nipomo customers uses 171 gallons of water per person per day.

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E-3) REVIEW AFFORDABLE HOUSING ORDINANCES FINAL ENVIRONMENTAL IMPACT REPORT (CONTINUED)

The Board had several suggestions to relay to the SLO County Planning Commission at Thursday's (August 9, 2007) meeting.

- That the Planning Commission call for a continuance
- Not to certify the EIR
- The report is a violation of the EIR for LAFCo's Sphere of Influence for NCSD
- It relies on WPA-6 which is incomplete and outdated
- SLO's Ordinance 3090 specifies that there will be no general plan amendments until there is wet water in the NCSD system
- The NCSD Urban Water Management Plan has not planned for the new density proposed by this report
- The Supplemental Water Project was planned for current use and does not provide for the increased demand
- Level of Severity III certification

Upon motion by Director Eby and seconded by Director Vierheilig, the Board unanimously agreed to authorize President Winn to comment to the SLO County Planning Commission that they do not recommend to the Board of Supervisors certifying the Environment Impact Report for approval of the Land Use Ordinance and call for a continuance until the issues as summarized above get resolved. There was no public comment. Vote 5-0.

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

02:22:12

E-4) REVIEW REVISIONS PROPOSED TO SLO COUNTY FRAMEWORK FOR PLANNING (INLAND)

Bruce Buel, General Manager, presented an overview of the proposed principles that provide guidance for planning and directing growth towards compact, walkable communities and for conserving agricultural, natural and scenic resources.

The Board discussed that this issue warrants an EIR. The link between commercial and residential is not addressed. "Smart Growth" causes an increase in water use and increases the impact on the sewer system.

Upon motion by Director Vierheilig and seconded by Director Eby, the Board unanimously agreed to authorize President Winn to caution the County that there are many issues that are inadequately addressed in the "Framework of Planning" and furthermore, the NCSD believes that a negative declaration is an inadequate response and needs an EIR for our purposes to deal with water supply system and sewer system. There may be other issues that are also inadequate but are beyond the purview of NCSD. There was no public comment. Vote 5-0

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

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E-4) REVIEW REVISIONS PROPOSED TO SLO COUNTY FRAMEWORK FOR PLANNING (INLAND) (continued)

President Winn read a short screed that he presented to the Planning Commission stating, "I have a hostile view of "Smart Growth" that I've been given. "Smart Growth" is a useful tool, simply because it's being only partially implemented and given a bad reputation. Here's the reputation – "Smart Growth" is a pathology who's symptoms are, 1) contempt for rural living which they call "sprawl" in deference to an unending appetite for resources by urban concentrations, 2) a callous disregard for children and their lives, 3) apathy toward visual relief in urban settings, 4) an insistence for public transport where there is no demand or interest, 5) a triumph of collectivism over individualism, 6) a willingness to trade off usable outdoor spaces where people live (backyards) to protect other outdoor spaces to be used by a few (environmentalists) 7) a stronger desire to freeze "farmy"-type views instead of defending economically viable agriculture, and 8) the arrogant and paternalistic assumption that planners know what is good for the electorate regardless of community values or vision. However, this is because we are only getting part of the package. Put in the parks, put in the vegetation, make sure water is allocated for the parks when they allocate for RMF, don't just put in the structures, and break away from density for profit and you go back to density to conserve resources and "Smart Growth" will be attractive again.

The Board went to the Close Session Announcements

02:50:37

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following 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.
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; NCSD 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. NCSD 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 present to comment.

02:51:22

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:04 p.m.

02:51:22

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

The Board came back into Open Session at 12:43 p.m.

Jon Seitz, District Legal Counsel, reported on the Closed Session. The Board heard an update on the items listed above. There was no reportable action.

02:52:49

F. MANAGER'S REPORT

Bruce Buel, General Manager, stated that his report is as presented in the Board packet.

He handed out a copy of the editorial written by Celeste Whitlow, Conservation Specialist, and published in the Tribune.

The Central Coast Groundwater Authority will conduct a presentation on the Nipomo Mesa management area groundwater situation at 6:00 p.m. on September 11, 2007, here in this Board room. The District will host the event. This is a dinner meeting. If any Board member wishes to attend, a count is needed. The speaker will be Dr. Brad Newton from SAIC.

The County Drainage Projects – NCSD will not need to negotiate with the apparent low-bidder. The County will allow an addendum after the bids are opened. The bidders will include the extra work for NCSD.

The Board asked questions.

There was no public present to comment.

G. COMMITTEE REPORTS

1. 7/23/07 Southland WWTF Upgrade Project Committee Meeting

Supplemental Water Committee will meet Thursday, August 9, 2007, 1:00 p.m.

The Finance, Audit, Personnel Committee will meet Monday, August 13, 2007, 9:00 a.m.

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby

He sent an email concerning conservation. He stated that there could be a different way for customers to conserve. Perhaps NCSD could offer a water audit service to customers.

Mr. Buel answered that a comprehensive conservation program will be presented soon.

Director Eby also commented about the water softening costs may be less because of the softer supplemental water.

Mr. Buel answered that Sorrel Marks insisted that a salt management program will be mandatory.

Director Winn

He asked if it would pay NCSD to create a water conditioning division.

Mr. Buel answered that perhaps an ordinance could be passed to discourage self-regenerating water softeners.

Olde Towne Nipomo meeting, Thursday, August 9, 2007. They appreciated an update on the activities of NCSD. August 16, 2007, there will be a meeting with Dr. Clay.

He stated that it is important to attend the Board of Supervisors' meeting when the "Framework for Affordable Housing" and the General Plan Amendment are being discussed.

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H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS (CONTINUED)

Director Winn

He stated that he was pleased with the work staff did on the Negative Declaration on the Ortiz project.

Evaluation forms for the General Manager are still being received.

He met with the Nipomo Valley Mutual Water Company Board Wednesday, August 8, 2007, about supplemental water and the possible use of their turnout. John Wallace and Associates did the engineering for their turnout. The Wallace Group (as it is now called) will be sending copies of some of the engineering paperwork done on the project.

03:38:08

ADJOURN

President Winn adjourned the meeting at 1:24 p.m.