

NIPOMO COMMUNITY SERVICES DISTRICT MINUTES

SEPTEMBER 12, 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.

B. ROLL CALL

At Roll Call, all Board members were present.

00:05:58

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) NOT USED

C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

Captain Felix Camacho of CAL FIRE represented Chief Fisher. Captain Camacho stated that August was a relatively slow month responding to 84 calls. Year-to-date Station 20 has responded to 841 calls and Station 22 has responded to 449 calls. CAL FIRE has received a grant to purchase thermo imaging cameras that will be installed on the engines in the near future.

C-3) DR. BRAD NEWTON OF SAIC

Dr. Brad Newton of SAIC presented revisions to the 2007 Groundwater Storage calculations and Proposed Water Emergency triggers. Dr. Newton presented the trigger conditions for Stage I-IV and the reset values. April has been selected as the monitoring month.

The following members of the public spoke:

Ian Wallace, NCSD resident at Blacklake – Asked if the 1500 acre feet trigger would be over a 1 year period

John Snyder, Non-District resident – Stated it was the worst study in terms of scientific quality that ignores geology and average specific yield.

Jon Seitz stated the Judge in Phase II of the trial determined the boundaries of the basin.

C-4) MIKE NUNLEY OF BOYLE ENGINEERING CORPORATION

Supplemental Water

Mike Nunley discussed the development of a short-term water supply revolving around state water by acquiring a portion of County of San Luis Obispo's unused entitlement. This requires meeting with all of the agencies involved. Additional time will be needed to submit this Technical Memo which was due on September 28. Boyle Engineering is also investigating desalination by identifying studies, permitting process, budgeting and scheduling. Technical Memo #3 is due September 28 and will be presented to the Board October 10. On October 16, NCSD and consultants will make a presentation to the SLO County Board of Supervisors.

C. PRESENTATIONS AND PUBLIC COMMENT (continued)

C-4) MIKE NUNLEY OF BOYLE ENGINEERING CORPORATION (continued)

Southland WWTF Update

Boyle Engineering is recommending that Fugro West perform Phase II (Agenda Item D9). This will allow the Master Plan to be revised and determine the fate of treated effluent and determine the project description. Also, salts managements and reduction of TDS will be reviewed.

C-5) TOM MARTIN OF SOUTH COUNTY SANITARY

Tom Martin stated that Clean Up Week for Nipomo is September 24-28, 2007. He also stated that June from the IWMA will be working with commercial customers and apartment complexes on the benefits of recycling.

C-6) PRE-VIEW OF CREEK CLEAN UP EVENT

Celeste Whitlow, NCSO Conservation and Public Outreach Specialist, stated that Creek Clean Up will be September 29 from 9:00 – 12:00. The focus of the clean up will be the down town area. She also showed the Board some of the free gifts volunteers will be receiving for participating.

C-7) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig – The Finance, Audit, Personnel Committee meeting set for September 19 has been postponed.

Director Eby – LAFCO Alternate for Special Districts – LAFCO has raised the stipend for meetings from \$25 to \$50 per meeting. LAFCO is reviewing the City of Morro Bay's Sphere of Influence and an annexation to Pismo Beach

Director Trotter – The Blacklake Meeting will be September 25 at 2:00 p.m. at the Club House to discuss the merger and rate studies.

Director Winn –

The Parks Citizen Advisory Subcommittee will meet at 6:30 p.m. on September 19.

The Economic Advisory Committee will meet on the 3rd floor of the County Government Center at 3:00 p.m. on September 20. Director Winn and Bruce Buel will be making a presentation.

The Chamber of Commerce will meet at 7:30 a.m. on September 25 at Woodlands. Bruce Buel will be the guest speaker.

The Planning Commission will meet on September 27 to review the proposed Affordable Housing Ordinance and Framework for Planning to incorporate smart growth principals county-wide.

C-8) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

Jon Seitz, District Legal Counsel, made the following comments on water in storage:

1. Nipomo is losing groundwater in storage
2. SAIC report is consistent with DWR Report
3. SAIC report is consistent with the Papadopolous Report of March 2004
4. SAIC report is consistent with the SLO Planning 2004 Capacity Study
5. SAIC report is consistent with the water analysis for Summit Station Report
6. SAIC report is consistent with the Stipulated Judgment signed by hundreds of property owners
7. SAIC report is consistent with the Board of Supervisors determination of Level III Severity (the most severe).

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Jon Seitz, District Legal Counsel, made the following comments on water in storage (continued)

It is fair game to criticize consultants; however, it is fair to say the consultant's report is consistent with six other reports prepared by experts.

The Board took a short break at 10:35 a.m. and returned at 10:45 a.m.

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of August 15, August 22 and August 29, 2007 Meetings

D-3) ACCEPT PACE BROS EASEMENT AND WATER AND SEWER IMPROVEMENTS ON GROVE WEST OF SOUTH OAKGLEN

**RESOLUTION NO. 2007-1040
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING AN EASEMENT AND THE WATER AND SEWER IMPROVEMENTS
FOR TRACT 2658 (PACE BROS)**

D-4) OPPOSE SB 619 AND AUTHORIZE SUBMITTAL OF POSITION STATEMENT

D-5) ACCEPT PEOPLES SELF HELP HOUSING WATER AND SEWER IMPROVEMENTS FOR MONTECITO VERDE UNIT III

**RESOLUTION NO. 2007-1041
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER AND SEWER IMPROVEMENTS
FOR CO 04-0606 (PEOPLE SELF HELP-MONTECITO VERDE III)**

D-6) ACCEPT REVISIONS TO STANDARD SPECIFICATIONS

**RESOLUTION NO. 2007-1042
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REVISING NCSD'S STANDARD SPECIFICATIONS
FOR WATER AND SEWER IMPROVEMENTS**

D-7) AMEND PERSONNEL POLICY TO CORRECT PERFORMANCE REVIEW FORM AND REFORMAT SECTION ON STANDBY PAY

**RESOLUTION NO. 2007-1043
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING SECTIONS 3010 AND 8020-APPENDIX C OF THE PERSONNEL,
POLICIES AND PROCEDURES MANUAL**

D-8) ACCEPT BEAUCHAMP WATER AND SEWER EASEMENT FOR THREE-LOT SUBDIVISION OFF SOUTH OAKGLEN – CO 06-0082

**RESOLUTION NO. 2007-1044
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING AN IRREVOCABLE AND PERPETUAL OFFER AND DEDICATION OF
SEWER PIPELINE AND WATER PIPELINE EASEMENT FOR CO 06-0082**

D-9) AMEND NOT TO EXCEED EXPENDITURE LIMIT IN SAIC GROUNDWATER MANAGEMENT PLAN AGREEMENT

D-10) DECLARE BLACKLAKE WATER SYSTEM BOOSTER STATION EQUIPMENT SURPLUS AND ZERO VALUE

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D. CONSENT AGENDA (continued)

Bruce Buel, General Manager, offered Items D-1 through D-10 for Board consideration and asked that the Board pull Item D-9 for separate consideration. There was no public comment. Upon motion by Director Vierheilig and seconded by Director Eby, the Board unanimously approved Item D1 through D8 and D10 as amended. There was no public comment. Vote 5-0.

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

Mr. Buel explained Item D9 This work is being done in anticipation of the Technical Group formation. NCSD hopes to get a credit or reimbursement in the future. It is estimated that the Technical Group will spend \$75,000 annually and produce an annual report. In the future, NCSD should be obligated to pay approximately 20% of the \$75,000. There was no public comment. Vote 5-0.

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

Director Trotter commented that the Blacklake motors (Agenda Item D10) are not scrap and should be surplus because motors have value.

00:27:00

E. ADMINISTRATIVE ITEMS

E-1) CONSIDER EXECUTION OF AGREEMENT WITH MARLOWE AND COMPANY TO ASSIST IN SECURING FEDERAL FUNDING FOR SUPPLEMENTAL WATER PROJECT

Bruce Buel, General Manager, stated that four requests for proposals were sent out and three proposals were received. The proposed contract is for fourteen months beginning November 2007 to December 2008. NCSD will try to secure STAG (State Tribal Assistance Grants). STAGs are funds used to offset projects in local communities. We don't need a specific project defined as long as we have a problem that needs to be solved. There was no public comment.

Upon motion by Director Harrison and seconded by Director Trotter, the Board agreed to enter into an agreement with Marlowe and Company. Vote 5-0.

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

00:38:58

E-2) AUTHORIZE REDUCTION IN SOLID WASTE FRANCHISE FEE TO OFFSET PROPOSED SOUTH COUNTY SANITARY COMPANY FEE INCREASE

Bruce Buel, General Manager, explained that South County Sanitary has requested a 3% CPI fee increase which is allowed in the Franchise Agreement.. During the budget process, the FAPC recommended that in lieu of a fee increase, the Franchise Fee be reduced to offset the fee increase. A revised resolution was distributed to the Board of Directors for consideration. The resolution allows for a suspension of the 10% during the suspension period but allows the Board the flexibility to return to the 10% without amending the contract.

Director Eby asked that a press release be prepared. Mr. Tom Martin of South County Sanitary stated that they will include a notification in the monthly utility bill.

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- E-2) AUTHORIZE REDUCTION IN SOLID WASTE FRANCHISE FEE TO OFFSET PROPOSED SOUTH COUNTY SANITARY COMPANY FEE INCREASE (continued)

There was no public comment.

Upon motion by Director Eby and seconded by Director Vierheilg, the Board unanimously approved Resolution 2007-1045. Vote 5-0.

RESOLUTION NO. 2007-1045
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REDUCING THE FRANCHISE FEE PAYMENT TO SOUTH
COUNTY SANITARY FROM 10% TO 7.3%

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

- E-3) NOT USED

00:47:20

- E-4) AUTHORIZE EXECUTION OF AGREEMENT WITH FUGRO WEST TO IMPLEMENT PHASE II RESEARCH RE DISCHARGE OF SOUTHLAND WWTF EFFLUENT

Bruce Buel, General Manager, discussed the need to have Fugro West perform Phase II research on the discharge of the Southland WWTF effluent. More research needs to be done on aquifer under the plant.

Paul Sorenson of Fugro West stated that we need to characterize the deeper aquifer before a decision can be made as to effluent disposal. Fugro West will also look at water quality impacts on the creek, if any, and sample upstream. The constituents for sampling have not been decided yet. Fugro will work with Boyle and the chemists to make that determination.

There was no public comment.

Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously approved the agreement with Fugro West. Vote 5-0.

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

01:11:00

- E-5) ACCEPT PEG MILLER'S RESIGNATION FROM PCASC AND CONSIDER SELECTION OF REPLACEMENT

Peg Miller has submitted her resignation due to a conflict of interest. It was asked that the PCASC be shortened to PCAS. Director Vierheilg stated he is seeking a replacement for Ms. Miller. There was not public comment.

Upon motion of Director Vierheilg and seconded by Director Eby, the Board unanimously accepted Peg Miller's resignation. Vote 5-0.

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

01:15:00

F. MANAGER'S REPORT

Bruce Buel, General Manager, stated that there were no additions to the written material in the Board letter. The Board asked questions. There was no public comment.

01:20:00

G. COMMITTEE REPORTS

The FAPC will reschedule their meeting.
The Supplemental Water Committee will meet on October 8.
The Parks Committee needs to schedule a meeting.
The Water Conservation Committee will meet on September 17.

01:21:00

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby would like to see a comprehensive conservation plan rather than a piecemeal version. A conservation program should cover the whole mesa and not just NCSD which is about 20% of the mesa.

Director Winn stated that NCSD will have to take the lead and can't sit back and wait for others to initiate a conservation program.

01:26:00

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following items to be considered 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; MARIA VISTA ESTATES V. NCSD ET AL. (CASE NO. ND07-10362RR IN UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT, NORTHERN DIVISION
4. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; NCSD VS. SLO COUNTY (CASE NO. CV 070066)
5. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – PROVIDE INSTRUCTIONS TO BRUCE BUEL AND JON SEITZ REGARDING NEGOTIATIONS ON PRICE AND TERMS WITH JESSE SILVER (OWNER AND NEGOTIATOR) REGARDING THE FEE TITLE PURCHASE OF APN 091-311-026 (776 MESA ROAD, NIPOMO) PURSUANT TO GOVERNMENT CODE SECTION 54956.8
6. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – REVIEW GENERAL MANAGER'S PERFORMANCE PURSUANT TO GOVERNMENT CODE SECTION 54957

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public present to comment.

01:30:00

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:15 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:30 p.m.

There was no audience present.

Jon Seitz, District Legal Counsel, announced that the Board heard an update on the items listed above. There was no reportable action on items 1, 2, 3, 4 or 6. Item 5, the Board of Directors instructed the General Manager to procure an appraisal on APN 091-311-026.

ADJOURN

President Winn adjourned the meeting at 1:33 p.m.

➤ **THE NEXT REGULAR BOARD MEETING IS SEPTEMBER 26, 2007.**

TENTATIVELY SCHEDULED ITEMS INCLUDE:

- Review Rate Studies and Financial Plans
- Water Conservation Program Concept Review
- Emergency Water Supply Ordinance Conceptual Review