

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 42 - Years of Service 1965 - 2007

MINUTES

OCTOBER 24, 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.

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) GREG BURNS OF MARLOWE AND COMPANY

Greg Burns of Marlowe and Company introduced himself and Josh Gabaton and gave an overview of the process the firm will be following to help the District obtain Federal funding for a supplemental water supply project.

Mr. Burns answered questions from the Board.

The Board thanked Mr. Burns for his presentation.

C-2) ASSISTANT GENERAL MANAGER LISA BOGNUDA

Lisa Bognuda, Assistant General Manager, reviewed the Quarterly Financial Report. There were no budget adjustments in this quarter. Ms. Bognuda answered questions from the Board.

The Board thanked Ms. Bognuda for her presentation.

C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

Receive Announcements from Directors Items of District & Community Interest

Director Eby

At the LAFCo meeting last week, the sphere of influence for Morro Bay was discussed. LAFCo shrank the line back to the city limits and thus the city will have zero SOI. Also, there will be no LAFCo meeting in November.

Director Winn

- On-Site Waste Treatment System Workshop was held Friday, October 19, 2007. Bruce Buel, General Manager, commented on the workshop. There was a staff meeting with Barry Tolle (primary staff member) and Sheryl Journey. The Regional Water Quality Control Board did not support County staff's proposal and will be circulating its own revisions to the Basin Plan within two months. The County will wait to see what the Regional Board does with the proposed amendments to the Basin Plan instead of proceeding to amendment to Title 19.

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C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST (continued)

Director Winn (continued)

- Planning Commission meeting October 25th and November 8, 2007, and may be discussing the Affordable Housing Ordinance, the new Inclusionary Housing Ordinance to be proposed, and the Framework for Planning.
- Chamber of Commerce Luncheon - 11:45 a.m. Oct. 31, 2007 at Blacklake Center.
- Library Summit –Saturday, Nov. 3, 2007 at Atascadero Lake from 9 a.m. to 2:00 p.m.
- Water Resources Advisory Committee has several items coming up.
 - A. Integrated Regional Water Management Plan, is coming up for revisions.
 - B. Data Enhancement Plan – Silas Cramer from the County will be developing the plan. Water resource data is desired from those who wish to work with him. Director Winn would like to see the District have a role in the plan. The plan is due for completion in January 2008.
 - C. Santa Margarita Draft EIR is supposed to come out by the end of October. A precedent could be set on how native water is evaluated as opposed to supplemental water.
 - D. The Paso Robles Basin Banking Feasibility Study has been started to see if the 17,000 acre feet of water at Polonial Pass can be banked in North County.
 - E. The State Water Board has a grant program for non-point source implementation. The grant deadline is November 1st. Nipomo Creek has the highest coliform bacteria counts in the County.

C-4) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

D. CONSENT AGENDA

- D-1) APPROVE WARRANTS
- D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of October 10, 2007 Meeting
- D-3) ACCEPT QUARTERLY FINANCIAL REPORT
- D-4) ACCEPT QUARTERLY INVESTMENT REPORT
- D-5) AWARD BID FOR SHOP OFFICE FURNISHINGS
- D-6) ACCEPT HAANPAA WATER IMPROVEMENTS AT MESA ROAD AND EASY LANE

Director Vierheilg asked about D-5. He asked about the floor plan seeming different than the specs. Mr. Buel explained. There was no public comment. Upon motion by Director Eby and seconded by Director Vierheilg, the Board unanimously approved the Consent Agenda. Vote 5-0.

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

RESOLUTION NO. 2007-1046
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AWARDING THE BID FOR FURNISHING THE SOUTHLAND SHOP OFFICE TO SMART! BUSINESS INTERIORS AND AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH SMART! TO PROVIDE THE FURNISHINGS

RESOLUTION NO. 2007-1047
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING THE WATER IMPROVEMENTS FOR CO 03-0120 (HAANPAA)

E. ADMINISTRATIVE ITEMS

00:32:34

E-1) REVIEW EDITS TO COMBINED WATER SYSTEM FINANCIAL PLAN AND DISCUSS MERGER OF TOWN AND BLACKLAKE WATER FUNDS

Bruce Buel, General Manager, reviewed the edits to the Water System Financial Plan from Mr. Bob Reed who developed a two-tiered inclining block rate structure for Multi-Family Housing.

President Winn suggested that the Board discuss the multi-family rates first, make a ruling and discuss the Blacklake merger later.

The Board discussed why the rates need to be changed for multi-family now when the rates for the entire water user population will be revisited soon. The Board agreed to continue this discussion to the November 14, 2007 Board meeting.

Blacklake Merger

The following members of the public spoke:

Bill Nelson, NCS D resident – read a statement into the record that he handed to the Board. A copy of the statement is available for viewing in the District office. His statement questioned some of the methods to compute the proposed merger.

Pat Eby, NCS D resident – stated that the group of people from Blacklake had formed an ad hoc committee and the group is not a part of the BLMA. She thanked the staff, Mr. Trotter and Mr. Eby for all the information and help given to her. She read a statement that she handed to the Board. A copy of the statement is available for viewing in the District office. The statement questioned the fairness of the merger.

Bill Petrick, NCS D resident – stated that the word merger is what is getting people upset and does not apply to the situation.

Bruce Buel, General Manager, thanked the members of the Blacklake community for the effort concerning the proposed merger. The submittals will be evaluated. He explained that the standard process to obtain the money to upgrade the needed improvements to the Blacklake wells would be to borrow money from the Town Division Water Fund and then charge the members of the Blacklake community for the cost of the improvements for a stand-alone system. The word merger came from the desire to avoid the expenditure of funds for the Blacklake booster (approx \$800,000.00). Mr. Reed's analysis suggested that the Town Water Fund could absorb the Blacklake system but the equity surcharge would be needed to get the Blacklake Water Fund balanced. Mr. Buel stated that he would get some legal analysis to sort out the issue.

The Board discussed getting more information about other District annexations' histories, why Blacklake accounting is separate from Town, any historical precedence for a surcharge, legal fairness of surcharge, effect of rates with and without the surcharge, why the Blacklake funds are in the red, history of the comparison of rates, the fact that the District receives no property taxes from the Blacklake community, why the Blacklake residents adamantly opposed rate increases when they were proposed.

President Winn thanked the Blacklake residents for their input and asked them to have their power point presentation ready before the next Board packet is prepared so it can be included in the packet for the Board to review prior to the November 14th meeting.

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01:18:05

E-2) ACCEPT FY06-07 AUDIT

Bruce Buel, General Manager, introduced Bob Crosby to review the FY 06-07 Audit.

Bob Crosby, CPA of Crosby & Cindrigh presented the FY 06-07 Audit report. He expressed his appreciation to Lisa Bognuda, Assistant General Manager, and the staff for all their assistance in the audit process. There were no audit adjustments.

The Board discussed the report.

There was no public comment.

Upon motion by Director Vierheilig and seconded by Director Trotter, the Board agreed to accept and file the Audit Report for Fiscal Year 2006-2007. Vote 5-0.

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

01:34:26

E-3) FORWARD RECOMMENDATIONS TO RWQCB RE: USE OF GUADALUPE DUNES' MITIGATION FUND

Bruce Buel, General Manager, reviewed the recommendation that the District request that the Regional Water Quality Control Board use a portion of the Guadalupe Mitigation Fund for upgrading the Southland Wastewater Treatment Facility.

The Board discussed the suggestions from RWQCB. The Board suggested some of the following:

- The two proposals in the RWQCB staff report of June 2007, should be funded by State sources and not mitigation fees
- Spend the monies close to where the environmental damage was done
- Mitigation should have some impact on the damage
- Objection to funds going to a Low-Impact Development Program
- Nipomo Creek Watershed could benefit from the Southland WWTF upgrade.

There was no public comment.

Upon motion by Director Eby and seconded by Director Vierheilig, the Board unanimously agreed to nominate the Southland Wastewater Treatment Facility as a use of the Mitigation Funds and directed staff to submit a letter requesting funding. Vote 5-0.

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

01:48:51

E-4) DISCUSS ARBORIST'S RECOMMENDATIONS FOR OFFICE LANDSCAPE

Bruce Buel, General Manager, requested to postpone this item until Celeste Whitlow, the Conservation Specialist, is available to discuss the subject. There was no public comment.

01:50:20

E-5) CONSIDER BOB RUSS REQUEST TO PAY FOR GEO-HYDROLOGIC REVIEW OF WATER SUPPLY AVAILABLE ON NIPOMO HILLS

President Winn recused himself from the Board for the duration of this item. He owns property within 500 feet of the property to be discussed. He asked Vice President Vierheilig to conduct the meeting in his absence.

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E-5) CONSIDER BOB RUSS REQUEST TO PAY FOR GEO-HYDROLOGIC REVIEW OF WATER SUPPLY AVAILABLE ON NIPOMO HILLS (continued)

Bruce Buel, General Manager, reviewed the request from Bob Russ to pay for a geo-hydrological review of the water supply available on the Nipomo Hills property located on South Thompson, south of the District boundary.

The Board discussed the Sphere of Influence lines and the Urban Reserve Line in relation to the property. Questions of the hardness of the water in the area, water demand for the proposed project, whether or not the water supplied from the property would be considered supplemental water and if the well could produce 44 acre feet of water were also discussed.

The following members of the public spoke:

Bob Russ, Falcon Crest Builders - stated that the property is in escrow. (When the Board asked him if Spike Wheeler is involved with the current owner, he answered yes.)

John Snyder, Nipomo resident – stated that the District cannot consider the water from the property being discussed as supplemental water according to the water rights litigation.

Donna Mehlchau, Nipomo resident – read a statement she had handed to the Board. The final question included "What right does NCS D have to take water from Nipomo Valley? She stated that this is a similar scenario to the recent development on North Thompson avenue where a lot of money was spent to no avail.

Mark Moore, C&M Nursery Cavaletto Ranches – stated that the area in question is experiencing a severe decline in the water supply in wells. He stated that the District and the developer are opening up to potential failure.

Burt Fugate, Fugate Farming Company Foothill Ranch – stated that the farm he is on has been farmed since 1972. The groundwater is not replaceable. The water character will change by the following:

- The water pumped will become more mineralized
- Overdraft of the basin will produce fewer and fewer gallons of potable water
- Long-term reliability of the basin will be reduced with irreparable damage
- A 72-hour test will not prove there is enough safe yield

Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously agreed not to move forward with the request from Mr. Bob Russ. Vote 4-0.

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

F. MANAGER'S REPORT

Bruce Buel, General Manager, added the following to the report as presented in the Board packet:

- The AWWA class in Sacramento was a very informative one concerning desalination. Other districts reported on their progress in the processes to build a desalination plant. A written report is forthcoming.
- He called Todd Thompson, the State Water Resources Control Board representative looking for the State regulations but they have not yet been released.
- IRWM and Proposition 50 - Mr. Nunley is convinced that the District is not competitive because of the new timeline. Perhaps the District will be competitive next year.
- Director Eby asked about the developer who promised to pay for an analysis of the water system and failed to pay. There was no agreement in place.

The Board asked questions about the negative declaration appeal

The Board asked about:

- Regulations for putting in wells within the District boundary
- Mitigation for negative declaration
- Treated effluent for construction water and having additional treatment at the wastewater treatment facility.

03:03:30

G. COMMITTEE REPORTS

1. SWPD&CC Meeting of 10/8/07
2. FAPC Meeting of 10/9/07
3. PCAS Meeting of 10/15/07

The Board accepted the Committee Reports.

03:07:55

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Trotter would like compensation for committee meetings to be put on a future agenda.

Director Vierheilig would like for Director Trotter and himself to review the funded replacement. Also, prior to the next strategic planning session, he would like to do some studies on how we approach projects .

Director Eby stated that a radio program with Dave Congalton will feature desalination next week. Perhaps someone from the District could be prepared to talk on the show.

03:18:37

I. CLOSED SESSION ANNOUNCEMENTS

Mike Seitz, District Legal Counsel, announced the following item to be considered in Closed Session.

1. INITIATION OF LITIGATION PURSUANT TO SUBDIVISION (C) OF GOVERNMENT CODE SECTION 54956.95 (ONE POTENTIAL CASE)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

President Winn adjourned to Closed Session at 12:31 p.m.

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L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 12:58 p.m. Mike Seitz, District Legal Counsel, announced out of Closed Session that the Board heard a report on the item above. There was no reportable action.

ADJOURN

President Winn adjourned the meeting at 12:59 p.m.

➤ **THE NEXT REGULAR BOARD MEETING IS NOVEMBER 14, 2007.**

TENTATIVELY SCHEDULED ITEMS INCLUDE:

- Water Conservation Program
- Miller Park Assessment Funding Report
- Combined Water System Financial Plan