

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 42 - Years of Service 1965 - 2007

MINUTES

NOVEMBER 28, 2007 AT 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**
PETER SEVCIK, **DISTRICT ENGINEER**

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 9:01a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all Board members were present.

00:01:07

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) NCSD UTILITY SUPERVISOR DAN MIGLIAZZO

Dan Migliazzo updated the Board on the activities in the Utility Department. Sludge Basin 2 is being desludged.

The crew has been replacing valves in the water system in Juniper Street and Chaparral. The new office building has been delivered and is in the process of being assembled. Special sampling of the monitoring wells in concert with Fugro has been completed. District staff took samples two weeks before Fugro and two weeks after Fugro sampled. Fire hydrant replacements are in process.

PGE awarded a rebate of more than \$4,000 for improved efficiency at the Blacklake Booster Station.

Blacklake Well #3 has been cleaned. Production increased by 60 gpm.

The Board asked Mr. Migliazzo questions about the horse power versus production at the wells. Well #3 tested at 325 gallons per minute but only performed at 100 gpm. After some repair work, the well provided 160 gpm.

The Board thanked Mr. Migliazzo for his presentation.

C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig

Saturday, December 1, 2007, 9:00 a.m. to noon Work Day at the Nipomo Native Garden.

Director Eby

At the SCAC meeting Monday night (Nov. 26, 2007) Jan Di Leo from County Parks spoke on the Parks Master Plan Study. An EIR will probably be done on it.

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C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest

Director Winn

SLO County Planning Commission to meet Thursday, November 29, 2007. One item on the agenda is Affordable Housing.

NCSD Strategic Planning Forum will be Friday, November 30, 2007, 1:00 to 5:00 p.m. and Saturday, December 1, 2007 from 8:30 a.m. to 5:00 p.m.

Wednesday, December 5, 2007 – Water Resources Advisory Committee for the County will meet 1:30 -3:30 p.m. at the San Luis Obispo Library and will be considering the Resource Management System and Resource Conservation Studies in County General Plan.

C-3) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

00:13:12

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of November 14, 2007 Meeting

D-3) PREVIEW 11/30/07 & 12/1/07 STRATEGIC PLAN WORKSHOP

D-4) AUTHORIZE PURCHASE OF COMPUTER, PHONE, AND GENERATOR SYSTEMS FOR SHOP OFFICE AND AMEND FY07-08 BUDGET

Director Vierheilg asked to have Item D-4 pulled for separate consideration.

He also pointed out a few items in the Minutes to be corrected.

Bruce Buel, General Manager, reviewed Item D-3 in regard to some of the guest speakers expected at the Strategic Planning Forum. (Chuck Beesley {facilitator}, Mike Wolken, Paavo Ogren, and Mike Nunley.)

Upon motion by Director Vierheilg, and seconded by Director Eby, the Board approved Items D1, D2 and D3 on the Consent Agenda, as amended. Vote 5-0.

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

Item D-4

Bruce Buel, General Manager, described the proposed computer and phone systems that will connect with the office better than they had in the past. The Board asked if the natural gas generator can be changed into propane in case of damage to the gas line. Mr. Migliazzo stated that it could. The Board directed staff to report back with a proposal.

Upon motion of Director Vierheilg and seconded by Director Eby, the Board unanimously approved Item D-4. Vote 5-0.

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

00:35:21

E. ADMINISTRATIVE ITEMS

The Board opted to consider item E-7 first before E-1.

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00:35:52

E-7) REVIEW REQUEST TO RECONSIDER FINANCIAL PLAN COMPONENTS OF MOTION ADOPTED AT 11/14/07 BOARD MEETING RE: BLACKLAKE AND COMMISSION SPECIAL COUNSEL LEGAL ANALYSIS OF INCLUDING/EXCLUDING TOWN WATER FUND 700 (CAPACITY CHARGES) IN EQUITY COMPARISON

Director Eby explained that the motion he made at the November 14, 2007 meeting included the following:

- “To commission Boyle to prepare a study to upgrade the hydro-geologic capacities supply and demand of Blacklake;
- To commission Boyle to revisit the cost to replace the pressurized system at Blacklake; and
- To commission Reed to develop a detailed cost rate study for the stand-alone and fully merged Blacklake-Town systems based on the previous two analyses”.

He explained that after the meeting was over, he and the director who seconded the motion (Director Trotter) agreed that they would prefer to include only the first two parts of the motion and withdraw the third portion.

Jon Seitz, District Legal Counsel, explained that the entire motion would need to be rescinded and a new motion would need to be made. There was no public comment.

Upon motion by Director Eby and seconded by Director Trotter, the Board unanimously agreed to reconsider the Board's action related to the Blacklake and Town Divisions' merger. Vote 5-0

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

Director Eby made a motion for staff to commission to determine hydro-geologic capacity supply of Blacklake as a stand-alone operation to see if the Blacklake wells can provide enough water to supply the Blacklake area and to verify costs of replacing a pressurized system and report back at a subsequent meeting for historic purposes. The motion died for the lack of a second.

Director Vierheilig made a motion to direct staff and other necessary experts to look at the appropriateness and legal defensibility of including or excluding Fund 700 from the equity surcharge calculation for the merger of Town and Blacklake systems with regard to the Blacklake merger. Director Harrison seconded the motion.

The following members of the public commented on the motion:

Pat Eby, NCSD resident – stated that she would like to have the equity surcharge removed. She asked how the District is legally able to charge the surcharge.

John Snyder, Nipomo resident – stated that the Board has underfunded the capital to adequately maintain the Blacklake system pumps leaving a deficit. Also the Board has issued will-serve letters without sufficient water. Blacklake has appropriate water rights.

Jon Seitz, District Legal Counsel, addressed the comments. He stated that the water on the mesa is mesa-wide, coined by the county as Nipomo Mesa Conservation Area. The Blacklake development was operated under CSA 1-E. Blacklake was never an appropriator. Blacklake did not have overlying water rights.

Mr. Buel stated that all NCSD water customers pay for supplemental water.

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- E-7) REVIEW REQUEST TO RECONSIDER FINANCIAL PLAN COMPONENTS OF MOTION ADOPTED AT 11/14/07 BOARD MEETING RE: BLACKLAKE AND COMMISSION SPECIAL COUNSEL LEGAL ANALYSIS OF INCLUDING/EXCLUDING TOWN WATER FUND 700 (CAPACITY CHARGES) IN EQUITY COMPARISON (continued)

The Board discussed the motion further. Vote 5-0.

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

01:07:03

The Board took a break at 10:10 a.m. and returned at 10:18 a.m.

- E-1) RECEIVE DRAFT WATER AND SEWER MASTER PLAN AND SET HEARING TO CONSIDER TENTATIVE ADOPTION

Bruce Buel, General Manager, presented the Draft Water and Sewer Master Plan as prepared by Cannon Associates and introduced Larry Kraemer.

Larry Kraemer, Cannon Associates, provided an overview of the priorities, the water and sewer projects and the implementation plan. He reviewed some of the topics included in the Plan. The Board discussed the Plan with Mr. Kraemer.

Bruce Buel, General Manager, read into record an email message from Jesse Hill received November 21, 2007, stating that he did not like the term "sub-basin" as inserted in Attachment 15 and is requesting a revision of the use of that term. Director Winn and Mr. Buel agreed that is now referred to as Nipomo Mesa Management Area or the Water Mesa Conservation Area.

Director Eby stated that for those interested in learning more about the District's intentions of relocating the groundwater recharge areas, Appendix J addresses that subject. At the end it recommends several steps, including further study, an environmental assessment of the solutions and development of alignment procedures. It is a work in progress and not completed as some have claimed. Mr. Buel added that the list of sewer priority funding includes several "unknowns". The District does not know yet what the project will be.

The following members of the public spoke:

John Snyder, Nipomo resident – stated that the Sewer and Water Master Plan was set up for rate increases which fund the future. He stated that there has been no proper analysis of discharging treated wastewater to Mesa Road. Ag will need more water if you add more salts into the groundwater. He stated that there should be a revision of the plan.

Joan Bonino, Nipomo resident – asked about Appendix J addressing water near a dilutant, and asked about Groundwater Recharge Regulations if water is recharged. She stated that she would like the situation looked into.

Doug Lombardo, Board of Directors of the Community Health Center in Nipomo – stated his concern about wastewater discharging into a pond and possibly going bad causing big problems.

Ingmar Lauringson, Nipomo resident – asked the Board to look at the possibility of the value of homes in the area decreasing and increasing the cost of the project for compensation for the loss of value.

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- E-1) RECEIVE DRAFT WATER AND SEWER MASTER PLAN AND SET HEARING TO CONSIDER TENTATIVE ADOPTION (continued)

Stephanie Green, NCSD resident – stated that when she lived in Los Angeles there was overflow of effluent behind her house. She asked about testing for TB, AIDS, and testosterone in the effluent. She stated her desire to put the project into a commercial area rather than a residential area.

David Gale, Nipomo resident – asked why the District was choosing the Mesa Rd. area. He stated that he did not support the idea.

Public comment was closed to the public.

The directors discussed the matter. The Board and staff informed the public that no decisions have been made. The Board has commissioned a hydro-geologic study to determine the best place for the treated wastewater.

Bruce Buel, General Manager, recommended that the Board set a hearing for January 9, 2008, to consider tentative adoption of the Water and Sewer Master Plan.

02:08:23

- E-2) DISCUSS DRAFT STAFF PROPOSAL RE: SOLID WASTE FEE EXEMPTIONS AND SET HEARING TO CONSIDER ADOPTION

Bruce Buel, General Manager, explained that the staff proposes a policy for solid waste fee exemptions.

Tom Martin, South County Sanitation Controller – stated that California State Law determines the need to remove trash weekly.

There was no public comment.

The Board discussed the proposed policy and gave some suggestions for revisions. The Board agreed to set a hearing at December 12, 2007 meeting to consider adoption of the final policy.

The Board took a break at 11:35 a.m. and returned at 11:45 a. m.

The Board agreed to hear Item E-5 next.

02:22:07

- E-5) CONSIDER TRACT 2611 (FRONTAGE AT HILL MIXED-USE PROJECT) VARIANCE APPLICATION TO EXTEND INTENT-TO-SERVE APPROVAL TERM

Bruce Buel, General Manager, described the request from EDA on behalf of Ed Shapiro to extend the term for the Intent-to-Serve letter for Tract 2611 four months from November 19, 2007 to March 19, 2008.

Paul Reichardt of EDA discussed the matter with the Board.

There was no public comment. The Board suggested a few edits to the resolution.

Upon motion by Director Vierheilig and seconded by Director Harrison, the Board unanimously approved Resolution 2007-1051, as amended. Vote 5-0.

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

**RESOLUTION NO. 2007-1051
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
EXTENDING THE TERM OF THE TRACT 2611 INTENT-TO-SERVE LETTER TO MAY 19, 2008**

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02:40:37

E-3) DISCUSS ARBORIST'S RECOMMENDATIONS FOR OFFICE LANDSCAPE

Bruce Buel, General Manager, explained that staff has received recommendations from an arborist and is looking for direction from the Board.

Celeste Whitlow, Water Conservation Specialist – reviewed the Board's decision to have an arborist evaluate the trees on the District property. She showed a slide presentation with pictures of the trees and suggestions for each one.

The Board discussed the suggestions.

Director Harrison made a motion to get bids for removing and grinding down of the trees posing safety problems and placing grating around the suggested trees. Director Vierheilig seconded the motion. There was no public comment. Vote 5-0.

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

03:17:25

E-4) INITIATE BYLAWS REVISION TO INCREASE MEETING COMPENSATION AND SET HEARING TO CONSIDER ADOPTION

This item is to be continued at a future meeting. There was no public comment.

The Board chose to go into Closed Session next.

E-6 will be heard after the Closed Session.

03:18:20

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the items to be heard during 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; MARIA VISTA ESTATES V. NCSA 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; NCSA VS. SLO COUNTY (CASE NO. CV 070066)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:43 p.m.

The Board announced that they would probably return at 1:15 p.m.

03:20:17

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

At 1:19 p.m., the Board came back into Open Session. Jon Seitz, District Legal Counsel, announced that the Board heard an update on the items listed above. There was no reportable action.

03:21:07

E-6) ENROLL BOARD MEMBERS IN STATE MANDATED NIMS/SEMS/ICS TRAINING COURSE

Bruce Buel, General Manager, reviewed the notice from the Templeton Community Services District announcing the availability of a National Incident Management System (NIMS)/Standardized Emergency Management System (SEMS)/Incident Command System (ICS) training course on December 7, 2007 in Templeton. There was no public comment. All Board members agreed to attend the class.

03:30:40

E-8) CONFIRM IMPLEMENTATION OF 2008 TOWN AND BLACKLAKE WATER RATE INCREASE PREVIOUSLY APPROVED

Bruce Buel, General Manager, explained that the water rate increases were approved with Ordinance No. 2005-103.

Upon motion by Director Vierheilig and seconded by Director Trotter, the Board agreed to confirm implementation of 2008 rates previously adopted. There was no public comment. Vote 5-0.

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

03:32:53

E-9) INITIATE CONSIDERATION OF STATE GRANT APPLICATION TO FUND NIPOMO MESA GROUNDWATER RESEARCH AND SET 12/12/07 HEARING TO ADOPT

Bruce Buel, General Manager, explained the process suggested for application for a State grant to help fund the Nipomo Mesa groundwater research.

Dr Brad Newton, SAIC – discussed the application process with the Board. It was suggested that a funding profile be included in the application. The Board asked questions and made other suggestions for the wording in the application.

Upon motion by Director Harrison and seconded by Director Trotter, the Board unanimously agreed to authorize staff to submit a tentative filing of the application for a State grant by the State's deadline and set a hearing for the December 12, 2007 Board meeting to consider adoption of the required resolution. There was no public comment. Vote 5-0.

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

04:17:18

F. MANAGER'S REPORT

Bruce Buel, General Manager, presented his report as written. The Board asked questions about the Craig Annexation. Mr. Buel answered that LAFCo had approved the annexation in error and also withdrew it. The Board asked about supplemental water and also about fees Mr. Shapiro will need to pay.

04:25:07

G. COMMITTEE REPORTS

1. Water Conservation Committee Meeting of 11/9/07

The Minutes are as published. There were no corrections.

Water Conservation Committee met again November 26, 2007 and will meet again December 19, 2007.

Southland Wastewater Treatment Facility Upgrade Committee will meet Dec. 3, 2007.

Supplemental Water Committee will meet December 10th.

Parks Committee will meet December 17, 2007.

04:26:36

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn – A gross well production spreadsheet from Lisa was found helpful.

Lisa provide a list of expenditures for Fund 700 for the past ten years.

Allocations for housing have come from the State for SLO County. There are approx. 4900 homes and approx. 1300 for the unincorporated areas, Nipomo being a large portion.

Director Vierheilig stated budgeting needs to be better.

Director Eby asked about the Draft Emergency Water Storage. He asked if supplemental water will be on the next meeting.

ADJOURN

President Winn adjourned the meeting at 2:41 p.m.

➤ **THE NEXT REGULAR BOARD MEETING IS DECEMBER 12, 2007.**
TENTATIVELY SCHEDULED ITEMS INCLUDE:

- Report on Supplemental Water Development
- Draft Emergency Water Shortage Regulations