

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 42 - Years of Service 1965 - 2007*

## MINUTES

**DECEMBER 12, 2007 AT 9AM**

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 9:00 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all Board members were present.

00:00:55

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) COMMANDER HASCALL FROM SLO COUNTY SHERIFF'S OFFICE

Update re: Sheriff's Activities on the Nipomo Mesa

Commander Hascall gave an update on the recent vandalism in Nipomo and Oceano. He also discussed the "Project Lifesaver" program that provides wristbands with GPS tracking devices in them for Alzheimer patients. Also, a CMC inmate with Nipomo ties walked away from a work crew in Pismo.

C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

Update re: Cal Fire Activities on the Nipomo Mesa

Battalion Chief Bill Fisher stated the ban burn has been lifted and staffing for wild fires will continue until January 5. They responded to 119 calls in November.

C-3) DISTRICT ENGINEER PETER SEVCIK

Summary of District Engineer Activities

District Engineer, Peter Sevcik, summarized his activities which included the Southland WWTF Upgrade, preparing a new IIPP and Code of Safe Practices, review of Water and Sewer Master Plan Update, coordination of the Replacement Study, reviewing and signing compliance reports and touring the Morro Bay desalination plant.

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

Receive Announcements from Directors Items of District & Community Interest

SCAC Land Use Committee will meet at 9:00 a.m. and the SCAC will meet at 6:30 p.m. on Monday, December 17, 2007.

WRAC will meet on January 9, 2008 and look at the RMS and receive an update of the conservation element.

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C-5) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Tim Richley of Cider Village Associates requested the Board of Directors hold a Special Meeting to consider acceptance of his project prior to the end of the year. The applicant acknowledged that he was aware of the fee for holding a Special Meeting at the applicant's request. The Board of Directors agreed to hold a Special Meeting on Wednesday, December 19, 2007 at 9:30 a.m. Director Trotter will not be able to attend.

Joan Bonino, Nipomo resident – asked if the Board had looked into upgrading the Southland WWTF to a tertiary level so the reclaimed water could be used for landscaping and ground level irrigation. Bruce Buel, General Manager, stated that the draft upgrade report did evaluate this treatment. It is estimated to cost \$2-4M plus the cost of pipelines. It is still on the table for consideration and the RWQCB may require it.

00:21:20

D. CONSENT AGENDA

- D-1) APPROVE WARRANTS
- D-2) APPROVE BOARD MEETING MINUTES  
Approve Minutes of 11/28/07, 11/30/07, and 12/01/07 Meetings
- D-3) AUTHORIZE EXECUTION OF AGREEMENT WITH ACTUARIAL FIRM TO EVALUATE POST RETIREMENT LIABILITIES
- D-4) AWARD LOW BID FOR PURCHASE OF PICKUP TRUCK
- D-5) AWARD LOW BID FOR PURCHASE OF TRACTOR
- D-6) AUTHORIZE EXECUTION OF CONTRACT WITH LANDSCAPE MAINTENANCE FIRM FOR MAINTENANCE OF OFFICE AND BLACKLAKE TANK LANDSCAPE
- D-7) ADOPT REVISED INJURY AND ILLNESS PROGRAM AND 2008 CODE OF SAFE PRACTICES
- D-8) ACCEPT NIPOMO TOWN SQUARE UTILITY EASEMENTS
- D-9) AUTHORIZE INSTALLATION OF COMPOST TUMBLER AND WORM FARM ON OFFICE LOT
- D-10) AUTHORIZE ISSUANCE OF COURTESY NOTICES DURING WATER SUPPLY EMERGENCIES

Director Harrison asked to have Item D-4 pulled for separate consideration. Director Vierheilg and Director Winn made corrections to the Minutes. Item D-5, it was suggested that the quote for the trailer be brought back for consideration at a subsequent meeting.

Upon motion of Director Vierheilg and seconded by Director Harrison, the Board approved Items D1, D2, D3, D5, D6, D7, D8, D9 and D10 on the Consent Agenda, as amended. Vote 5-0.

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

**RESOLUTION NO. 2007-1052**  
**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AMENDING THE INJURY AND ILLNESS PREVENTION PROGRAM AND ADOPTING 2008 CODE OF SAFE PRACTICES**

**RESOLUTION NO. 2007-1053**  
**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING AN IRREVOCABLE AND PERPETUAL OFFER AND DEDICATION OF WATER PIPELINE EASEMENT FOR TRACT 2652, NIPOMO BUSINESS PARK**

Item D-4

Director Harrison stated that it was unclear if Mullahey Ford met the bid specifications regarding heavy duty suspension and fuel tanks. Item D-4 was continued and Staff was directed to report back with new bldgs.

00:39:52

#### E. ADMINISTRATIVE ITEMS

President Winn stated Item E-8 would be heard first because he had to leave the meeting early. Vice President Vierheilg would take over chairing the meeting upon his departure.

#### E-8) ELECT 2008 OFFICERS

Bruce Buel, General Manager, reviewed the nomination and voting procedures. The new officers will take their seats on January 1, 2008. There was no public comment. Nominations were opened for President. Director Harrison nominated Director Winn. Director Trotter nominated Director Eby. Mr. Buel read the results of the ballots:

Directors Vierheilg, Harrison and Winn voted for Director Winn.  
Directors Eby and Trotter voted for Director Eby.

On a vote of 3-2, Director Winn was voted President for 2008.

Nominations were opened for Vice President. There was no public comment. Director Winn nominated Director Vierheilg. Director Trotter nominated Director Harrison. Mr. Buel read the results of the ballots:

Directors Winn and Vierheilg voted for Director Vierheilg.  
Directors Eby, Trotter and Harrison voted for Director Harrison.

On a vote of 3-2, Director Harrison was voted Vice President for 2008.

00:46:33

#### E-1) RECEIVE DRAFT BOYLE TECHNICAL MEMORANDUM REGARDING WATER SUPPLY FROM CCWA/STATE WATER PIPELINE AND PROVIDE POLICY DIRECTION ON DEVELOPMENT OF SUPPLEMENTAL WATER

Mike Nunley and Malcolm McEwen of Boyle Engineering presented Technical Memorandum No. 3 Implementation of Water Supply from CCWA/State Water Pipeline. Desalination has the highest cost but needs to be developed for the long-term. CCWA or the intertie project needs to be developed in the short-term to avoid seawater intrusion. If CCWA project is selected, Mr. Buel suggested the Board authorize a proposal to hire a water broker. If the intertie project is selected, he suggested the District proceed with a value engineering exercise.

Director Eby asked why the chart showed 4,100 to 5,100 customers as sharing the costs. The UWMP and maximum build-out within the existing NCS D boundary was used. Director Eby stated that since we need 4800 AF, CCWA can't supply that much so that option doesn't make sense.

Director Trotter asked if SLO County water allocation is a "use it or lose it" deal. The SLO County Public Works Department has stated so.

Director Vierheilg stated NCS D would still pump groundwater if the CCWA option was selected. He asked if the costs included disinfection switch over. The answer was yes. Director Vierheilg also stated that the option of contracting with a private firm to build and operate a desalination plant over a 20 year period should be looked at.

Director Winn stated the Coastal Commission would not permit a private owner to build a desalination plant.

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E-1) RECEIVE DRAFT BOYLE TECHNICAL MEMORANDUM REGARDING WATER SUPPLY FROM CCWA/STATE WATER PIPELINE AND PROVIDE POLICY DIRECTION ON DEVELOPMENT OF SUPPLEMENTAL WATER (continued)

Director Winn would like engineering, legal issues and policy/political ramifications reviewed for all options.

Rick Sweet, Utility Director of City of Santa Maria, stated that the City of Santa Maria has a valuable asset in its ownership in CCWA. He stated that the economic comparison of CCWA water is very low and should be about \$40K/AF and not \$13K/AF. Mr. Sweet also discussed water deliveries and water brokering.

Director Winn asked Mr. Sweet if there was a possibility of reviving the intertie project. Mr. Sweet stated yes and that water quality and water quantity is guaranteed.

Mr. Sweet also stated that 25 million people rely on State Water.

Director Winn stated he felt the Board of Directors was committed to desalination, whether they also consider CCWA or the intertie project or both.

District Legal Counsel, Jon Seitz, stated the Board of Directors cannot commit to a project until it is defined, however they could rank the projects based on today's information.

Bill Petrick, NCS D Customer – expressed his concern on how much the District is spending on studies and the amount of missing information.

John Snyder, Nipomo Resident – stated that Golden State Water is not going to participate in supplemental water and has hoodwinked NCS D.

Motion 1:

Upon motion of Director Eby and seconded by Director Vierheilig, the Board of Directors unanimously agreed to proceed with all deliberate speed as described for desalination and to explore the Santa Barbara desalination plant option. Vote 5-0.

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

Motion 2:

Upon motion of Director Eby and seconded by Director Trotter, the Board of Directors agreed to authorize Staff to restart the intertie project and to include but not limited to renegotiation of the MOU, value engineering, revisit CEQA and any other items that need to be addressed. Vote 4-1.

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

Motion 3:

Director Eby made the motion to continue efforts of acquiring CCWA water through Implementation Q1 in year 2009. The motion died for a lack of second. Director Eby stated that NCS D needs to be able to explain to residents why CCWA option was not pursued - what is the "fatal flaw" since it has the lowest cost per acre-foot delivered, if it worked out.

Motion 4:

Upon motion of Director Harrison and seconded by Director Vierheilig, the Board of Directors unanimously agreed to table the CCWA option until further consideration of other options. Vote 5-0.

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

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- E-1) RECEIVE DRAFT BOYLE TECHNICAL MEMORANDUM REGARDING WATER SUPPLY FROM CCWA/STATE WATER PIPELINE AND PROVIDE POLICY DIRECTION ON DEVELOPMENT OF SUPPLEMENTAL WATER (continued)

Director Winn concluded the item by stating he would like a document to provide to the public to explain the due diligence taken in this matter including, political and legal analysis. Mr. Nunley of Boyle Engineering stated these issues were addressed in previous Technical Memos.

*The Board took a break at 11:45 and returned at 12:00 p.m.*

The Board adjourned to Closed Session at 12:00 p.m. and would return promptly at 1:00 p.m.

02:44:00

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 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; MARIA VISTA ESTATES V. NCSO 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; NCSO VS. SLO COUNTY (CASE NO. CV 070066)
5. PURSUANT TO GOVERNMENT CODE SECTION 54956.9, CONSIDERATION OF NANCY L MURPHY CLAIM FILED PURSUANT TO GOVERNMENT CODE SECTION 910.4 FOR DAMAGES AT 203 E. BENNETT STREET

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. and would return at 1:00 p.m. promptly.

02:46:00

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

The Board came back into Open Session at 1:00 p.m.

Jon Seitz, District Legal Counsel, announced that the Board heard an update on items 1-4 listed above. There was no reportable action.

Item 5

Upon motion of Director Harrison and seconded by Director Winn, the Board agreed to deny Nancy Murphy's Claim.

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

02:47:00

## E-2) REVIEW REVISED DRAFT EMERGENCY WATER SUPPLY REGULATIONS AND SET COMMUNITY WORKSHOP TO CONSIDER ADOPTION

Dr. Brad Newton of SAIC presented SAIC's evaluation of Water Shortage Triggers. The Water Shortage Triggers have been revised from his previous presentation. Dr. Newton also presented estimates of groundwater in storage above sea level based on various dry year and wet year assumptions.

At 1:40 p.m. Director Winn excused himself from the meeting and stated he is supportive of the triggers as presented.

Director Eby stated that it is not future growth that will cause a problem it is past growth that has caused the current problem.

District Legal Counsel, Jon Seitz, reviewed the red-lined version of the draft ordinance for Emergency Water Shortage Regulations. Additional edits will include eliminating the reset value as the triggers will stand alone. Mr. Seitz stated that implementation of water conservation ordinance policies will help avoid water emergency shortages.

District Legal Counsel, Jon Seitz, asked Dr. Newton if we have enough information to implement these triggers and Dr. Newton's response was "yes".

Celeste Whitlow, NCSD Public Outreach Specialist, commented on conservation policies versus emergency policies.

Director Vierheilig asked if every customer would receive a courtesy notice. In a water shortage emergency, every meter would be read monthly, however, only those customers exceeding their allotment would receive the courtesy notice.

The following member of the public spoke:

John Snyder - Nipomo resident stated that there are two sets of rules 1) rules of settlement and 2) rules of CA law, the boundary maps are not consistent and the geology should be reviewed and inflow versus outflow should be reviewed.

At 2:23 p.m. Director Trotter excused himself from the meeting.

The Board of Directors unanimously agreed to set a public information meeting on January 30, 2008 at 6:30 p.m. at the Forum at Nipomo High School.

The Board took a break at 2:33 p.m. and returned at 2:39 p.m.

04:20:00

## E-3) INITIATE REVIEW OF EDITS TO REIMBURSEMENT POLICY AND AUTHORIZE DEVELOPMENT OF ORDINANCE AMENDMENT

Bruce Buel, General Manager, and District Legal Counsel, Jon Seitz, reviewed the proposed edits to the reimbursement policy. The edits include the developer pay the processing costs up front and the District reduce the reimbursement fee from 10% to 5% and clarification of costs that are allowable for inclusion in the calculation. Another section will be added to the proposed policy to include a recorded Notice of Reimbursement. Staff will introduce the Ordinance for the first reading on January 9, 2008. There was no public comment. The Board unanimously agreed to have the Ordinance introduced on January 9, 2008.

Item E-7 was heard next due to District Legal Counsel having to leave at 3:30 p.m.

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04:34:00

- E-7) CONSIDER MORIARTY INTENT-TO-SERVE LETTER APPLICATION FOR WATER AND SEWER SERVICE FOR 18 CONDOMINIUM UNITS AT 557 GRANDE AVENUE

Bruce Buel, General Manager, stated that applicant was in the audience all morning, but had to leave. Applicant is agreeable to the conditions in the Intent-To-Serve Letter including the special condition. Director Eby asked if the Applicant is aware project will be phased. Mr. Buel stated the Applicant is aware of this. There was no public comment. Upon motion of Director Vierheilg and seconded by Director Harrison, the Board unanimously approved the Intent-To-Serve Letter.

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

04:41:00

- E-4) CONSIDER APPROVING REIMBURSEMENT AGREEMENT WITH ROBERT NEWDOLL FOR HONEY GROVE WORK

Bruce Buel, General Manager, stated that the Applicant has signed the Reimbursement Agreement. There was no public comment. Upon motion of Director Harrison and seconded by Director Eby, the Board unanimously approved the Resolution. Vote 3-0.

**RESOLUTION NO. 2007-1054**  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT APPROVING A REIMBURSEMENT AGREEMENT FOR HONEY GROVE LANE IV, CO -9-0089

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

04:43:00

- E-5) ADOPT RESOLUTION AUTHORIZING GROUNDWATER RESEARCH GRANT APPLICATION

Bruce Buel, General Manager, stated NCSD had received letters of support from Senator Maldonado, Assembly Member Blakeslee, SLO County Board of Supervisors, Supervisor Achadjian, WRAC, ConocoPhillips, Woodlands and Golden State Water. There was no public comment. Upon motion of Director Harrison and seconded by Director Eby, the Board unanimously approved the Resolution. Vote 3-0.

**RESOLUTION NO. 2007-1055**  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING SUBMITTAL OF DWR AB303 GRANT APPLICATION

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

04:45:00

- E-6) ADOPT SOLID WASTE EXEMPTION GUIDELINES

Bruce Buel, General Manager, stated there was one correction to the policy. Item 3(A)(1) should state the \$50 application fee is non-refundable. There was no public comment. Upon motion of Director Eby and seconded by Director Harrison, the Board unanimously approved the Resolution as amended. Vote 3-0.

**RESOLUTION NO. 2007-1056**  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING GUIDELINES FOR PROCESSING SOLID WASTE FEE EXEMPTIONS

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

- E-7) CONSIDER MORIARTY INTENT-TO-SERVE LETTER APPLICATION FOR WATER AND SEWER SERVICE FOR 18 CONDOMINIUM UNITS AT 557 GRANDE AVENUE

Item E-7 was heard prior to Item E-4.

## E-8) ELECT 2008 OFFICERS

This item was heard prior to Item E-1.

04:49:00

## F. MANAGER'S REPORT

Bruce Buel, General Manager, presented his report as written. Mr. Buel stated that on January 9, 2008, he and Director Winn have to leave the meeting at 1:30 p.m. to attend the WRAC meeting. Any items not considered on January 9, 2008 will be considered at an adjourned meeting on January 16, 2008. There was no public comment.

At 3:13 p.m., District Legal Counsel, Jon Seitz left the meeting.

04:57:00

## G. COMMITTEE REPORTS

1. Water Conservation Committee Meeting of 11/26/07
2. Southland WWTF Upgrade Committee Meeting of 12/3/07

There was no public comment. The Park Committee will meet on Monday, December 17, 2008, at 1:00 p.m. and the Water Conservation Committee will meet on Wednesday, December 19, 2008, at 2:00 p.m.

04:59:00

## H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby asked when we would be revisiting the Supplemental Water Capacity Fees. Mr. Buel stated that a proposal from The Reed Group would be presented at the January 9, 2008 Board Meeting.

05:02:00

## ADJOURN

Vice President Vierheilg adjourned the meeting at 3:23 p.m.

➤ **THE NEXT REGULAR BOARD MEETING IS JANUARY 9, 2008.****TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Water and Sewer Master Plan Adoption
- Parks Assessment Report

NOTE: The NCSD Board of Directors' Meeting of 12/26/07 is cancelled