

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 43 - Years of Service 1965 - 2008

ADJOURNED MEETING MINUTES

JANUARY 16, 2008 AT 9AM

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

MICHAEL WINN, **PRESIDENT**
JAMES HARRISON, **VICE PRESIDENT**
CLIFFORD TROTTER, **DIRECTOR**
LARRY VIEHEILIG, **DIRECTOR**
ED EBY, **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 & ACKNOWLEDGMENT OF 2008 OFFICERS

At Roll Call all Board members were present.

00:00:46

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

Receive Announcements from Directors Items of District & Community Interest

Director Eby stated LAFCO will meet on 1/17/08 at 9:00 a.m.

Director Harrison has tickets for sale for the Rotary fundraiser on 3/16/08

Director Trotter stated Blacklake Association has appointed three members of a five person committee to address Blacklake issues

Director Winn stated Economic Advisory Commission will meet 1/17/08 at the San Luis Obispo County Library. On 1/19/08 at 11:00 a.m. at NCSD, Supervisor Achadjian and a committee will meet to discuss a proposed park on the bluff. SCAC Land Use Committee will meet on 1/28/08 at 9:00 a.m. and SCAC will meet on 1/28/08 at 6:30 p.m.

President Winn announced that Item E-5 would begin at 1:00 p.m.

C-2) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Tom Geaslen, NCSD customer – stated the land for the proposed park on the bluff will be donated by the Tompkins family in memory of their nephew that died of cancer.

00:12:58

D. ADMINISTRATIVE ITEMS (PART 1)

D-1) NOT USED

D-2) NOT USED

D-3) NOT USED

D-4) NOT USED

D-5) NOT USED

D-6) NOT USED

D-7) NOT USED

D-8) NOT USED

D-9) NOT USED

D-10) NOT USED

D-11) NOT USED

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D-12) RETAIN TUCKFIELD AND ASSOCIATES TO PREPARE NEW EQUITY EQUALIZATION STUDY RELATED TO MERGER OF THE BLACKLAKE AND TOWN WATER FUNDS

Bruce Buel, General Manager, stated in November the Board of Directors directed Staff to review the possibility of excluding Fund 700 from the equity calculation. Staff retained the District auditor, Bob Crosby to review the matter. The Board of Directors has received his opinion. District Legal Counsel, Jon Seitz, stated Staff sought a proposal from a new rate consultant, Tuckfield and Associates. In requesting the proposal, Staff did not give any details of the matter and asked the consultant to provide a proposal and a list of information he would need from the District to perform his work as opposed the NCSD providing the materials.

Director Eby stated Tuckfield is an engineer and not a lawyer and stated his opinion would be a professional opinion and not a legal opinion.

Director Trotter stated that this would be an unnecessary expense. The inclusion of Fund 700 is a philosophical decision.

Director Harrison stated we should not look for more services because he and Director Vierheilg had already asked for a legal opinion regarding Fund 700.

Mr. Seitz stated his legal opinion has not changed. He stated that hiring a new rate consultant would provide the Board of Directors and customers a nexus. Bob Reed has stated that Fund 700 is an integral part of his model and it is appropriate to be included. Mr. Crosby's letter offered other rational basis to consider rates. Mr. Seitz stated he can't give opinion that Fund 700 can be removed since it is an integral part of Mr. Reed's model. The Board of Directors could move forward based on Mr. Reed's report under Prop 218 or hire an independent consultant to provide possible alternate models.

The following members of the public spoke:

Ian Wallace – NCSD customer –Questioned the benefit of studies and the amount of money spent on studies. He stated the outcome of a study reflects the position of the party commissioning the study.

John Snyder – Nipomo resident – Read an unsolicited email regarding Tuckfield and Associates work with Los Osos and Oceano CSD and stated is was unwise to hire the firm without further investigation.

Director Vierheilg stated the 6/30/07 data included in the spreadsheet he prepared for Item D-12 was incorrect.

Director Eby stated there is no harm in obtaining more information because it provides information for a better decision and the position would be more defensible in a legal challenge.

Director Harrison believes a new study would confuse the issue.

Director Trotter agrees with Director Harrison.

Upon motion of Director Eby and seconded by Director Harrison, a motion was made to authorize Staff to execute the agreement with Tuckfield and Associates. Vote 1-4, motion failed.

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

The Board of Directors directed staff to place the Blacklake Equity equalization issue on the agenda. The Board of Directors directed staff to place on the agenda the formation of an Ad Hoc Committee, with the president making the nominations to the committee, to discuss this matter with the Blacklake committee.

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The Board of Directors agreed to hear Item E-4 next since Boyle Engineering would arrive at 11:00 a.m.

E. ADMINISTRATIVE ITEMS (PART 2)

E-2) NOT USED

02:56:054 E-3) AUTHORIZE EXECUTION OF AMENDMENT TO EXISTING AGREEMENT WITH BOYLE ENGINEERING TO FINALIZE WATERLINE INTERTIE PROJECT ENGINEERING MEMORANDUM

Director Trotter left the meeting at 2:27p.m. and was not present for this item.

Bruce Buel, General Manager, presented this item. In order to re-start the Santa Maria Intertie project, additional work will need to be completed including renegotiations of the MOU, Peer Review, and engineering. It would not be cost effective or timely to seek an RFP since Boyle Engineering has unique knowledge and qualifications and the City of Santa Maria is supportive of Boyle’s involvement. This scope of work will take three months.

No public comment (other than Ms. Eby’s comment prior to adjourning to Closed Session).

Upon motion of Directory Eby and seconded by Director Winn, the motion to approve the amendment was tied. Vote 2-2.

YES VOTES	NO VOTES	ABSENT
Directors Eby and Winn	Directors Harrison, and Vierheilig	Director Trotter

Mike Nunley of Boyle Engineering commented on the Scope of Work and includes MOU negotiations, distribution modeling to determine the best route, in-system improvements, life cycle questions and coordination with the Master Plan Update. Upon completion of this work, the next phase would be the EIR and Plans and Specifications. Upon motion of Director Eby and seconded by Director Vierheilig, the Board of Directors unanimously approved the amendment to the existing Boyle Agreement. Vote 4-0.

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

00:44:56 E-4) PROPOSE DRAFT EMERGENCY WATER SHORTAGE REGULATIONS FOR PRESENTATION TO COMMUNITY AT JANUARY 30 WORKSHOP

Bruce Buel, General Manager, handed out Minutes from the January 4, 2008, meeting of the Water Conservation Committee. Also attached was the January 4, 2008 Draft Emergency Water Shortage Regulations. Mr. Buel suggested the Board of Directors agree on the proposed draft regulations so they can be presented to the public at the January 30, 2008 workshop.

John Snyder- Nipomo Resident – stated SAIC study was based on unreliable data.

Pat Eby – NCS D customer – states deletions in handout are confusing.

Ian Wallace – NCS D customer – asked how reliable is the rain data.

Jon Seitz, District Legal Counsel, stated that SAIC’s approach of measuring groundwater levels rather than rainfall is the best for determining water shortages. Mr. Seitz stated the Stipulated Judgment requires the Technical Group to develop conservation regulations. NCS D is taking a leadership role in developing policy. Director Eby stated we need supplemental water as soon as possible. Mr. Seitz reviewed the Water Conservation recommendations.

00:00:00
Recording
started over

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The Board of Directors took a 10 minute recess at 10:35 a.m.

The Board of Directors decided to review the draft document page by page.

Page 1

3.24.020(C) be clarified with SAIC

Page 2

3.24.020(F) include a definition of safe yield of "approximately X AF per year (X be determined by SAIC source document)

Page 3

Base Year be defined as fixed during the episode.

Page 4-No changes

Page 5

Director Eby asked to reduce each trigger by 10,000 AF. Mr. Seitz stated it's a policy decision by the Board but SAIC should comment on the net effect. It was agreed to leave as is, but to ask SAIC's opinion.

The word "potable" be added to 3.24.060(d).

Page 6

3.24.060(B)(1)(a) Stage 1 becomes mandatory

3.24.060(B)(1)(b) definition should include that ccf equals 1 unit

Page 7

3.24.060(B)(1)g) last line should refer to governed by 3.24.100 and add golf carts to list

3.24.060(B)(1)(k) include outdoor spas

3.24.060(B)1(j) remove entire section

Page 8

3.24.060(C)(1) renumber due to two (b)

3.24.060(C)(d) provide an example of how 400% means 5 times

3.24.060(C)(1)(e) switch Will Serve Letters and setting of new water meters

3.24.060(C)(1)(f) remove from Stage III and add to Stage IV

Page 9

3.24.060(C)(1)(f) remove from Stage III and add to Stage IV as (e)

Page 10

3.24.090(3) remove water meter will be removed and replace with water meter will be locked and, if necessary, removed

Page 11-No changes

Page 12

3.24.090 (A)(2) add hyphen to low-flush

Page 13

3.24.090(C) should be e.g. not i.e.

Staff will make the edits and prepare for circulation.

The Board adjourned to Closed Session at 12:20 p.m. and would return promptly at 1:00 p.m.

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;

00:19:57
00:00:00
Recording started over

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CLOSED SESSION ITEMS (CONTINUED)

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)

Pat Eby – NCSD Customer asked to give Public Comment on Item E-3 since she could not be in attendance for that item. She stated that the Board of Directors should request competitive bids rather than extending the existing contract with Boyle Engineering.

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.

01:31:27

E-5) CONSIDER ADOPTION OF WATER AND SEWER MASTER PLAN

Bruce Buel, General Manager, stated the Board of Directors reviewed the administrative draft on November 28, 2007. On December 12, 2007, the final proposed draft was presented to the Board of Directors. The final proposed draft is posted on the web site. Mr. Buel wanted to clarify:

- There is no proposal to build a wastewater treatment facility on Mesa Road
- NCSD will continue to treat its wastewater at the Southland WWTF
- NCSD is trying to find a solution to a serious problem
- The aquitard (thick clay layer) under the ponds are causing a subsurface mound
- NCSD is looking to discharge in another location or to puncture the aquitard to allow percolation
- The research by Fugro, Inc. will be presented to the Southland WWTF Committee on February 4, 2008, and the public is welcome.
- In late winter/early spring we can expect a recommendation on discharge of the treated wastewater
- Any proposal will include environmental review
- An appraisal was prepared on 776 Mesa Road (Silva) to provide a frame of reference as to the cost of land on Mesa Road. No offer to purchase has tendered.

Larry Kraemer of Cannon Associates presented a Summary of Revisions to the Board. Most of the changes were minor edits with the exception to Appendix J. The Fugro Scope of Work has been included and in Section 2, Sundale Well has been added as a near-term maintenance project since the District is relying on it for emergency storage capacity.

Director Eby stated he read both drafts from cover to cover and could not find reference to a new sewer plant. Mr. Kraemer stated it is not in the Master Plan.

The following members of the public spoke:

John Snyder – Nipomo Resident – Jessie Silva told him NCSD would be buying his property, there has been Closed Session items regarding negotiating the price and terms of the sale, NCSD contacted owners on both sides of Mr. Silva. Item E-5 recommendation is to direct Staff to implement the Master Plan, and there is a budget item for a new sewer force effluent main.

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E-5) CONSIDER ADOPTION OF WATER AND SEWER MASTER PLAN (continued)

Tom Geaslen – NCSD Customer – Zone 4 does not have sewer and Mesa Road is in Zone 4, leach lines fail because of hair products, etc, increased nitrates are migrating east of the wastewater treatment facility. Where is the money coming from? There is a housing slump.

Dan Malone – NCSD Customer – stated his disappointment of putting a percolation pond next to his home.

Joan Bonino – NCSD customer – Read a letter to the Board. Stated Kurt Souza of Department of Health Services stated a 4:1 ratio mix would be required and that means using 2 million gallons of potable water each day would be wasted to dilute the discharge.

Barbara Bonino – NCSD customer- continued reading Joan Bonino’s letter.

Nancy Mason - NCSD customer – stated there are 3 areas proposed and a discharge site does not belong in her neighborhood.

Thomas Mason – NCSD customer – commented on the 4:1 ratio draft rule by DHS

Ken Whittle – NCSD customer –objects to percolation ponds in his neighborhood. There needs to be notification and discussion and suggested NCSD drill deeper at the existing ponds.

Anne-Lise Thuse – NCSD customer – stated NCSD contacted 3 owners (Silva, Blume and Anderson) concerning the property on Mesa Road. She owns the property with her brother Anderson. She would like to know the real plans for the property and not for NCSD to say it is fictional.

Ethel Landers – NCSD customer – There is proposed five miles of effluent force main for an effluent percolation pond and does not want it next to her property.

Timothy Myer – NCSD customer – wants to know what the facility would look like

Scott Blume – Nipomo resident – stated his concern about contamination of well water at his home and surrounding area

Rudy Eberly – NCSD customer – commented on the water issues

Bill Nelson – NCSD customer- stated the improvements defined should agree with the fees and revenues coming in

Sue McMahon – NCSD customer – stated she is concerned about contaminated water and the potential health risks and asked that the \$7M project be removed from the bottom of the chart

Mr. Villanueva – NCSD customer – stated NCSD should look at repairing existing facility rather than move it to a new location and is concerned about well contamination

Susan Myer – NCSD customer – time should be taken to make decisions

Nancy Miller – NCSD customer – wants to be part of the solution and not part of the problem and wants to maintain quality of life

Diane Rinehart – NCSD customer – stated she is concerned and NCSD should listen to people

President Winn closed the public comment. Discussion ensued by the Board of Directors. Upon motion of Director Eby and seconded by Director Winn, the Board of Directors unanimously agreed that no further Staff action would be taken to procure land or design facilities for discharge at this or any location other than the land contiguous to the Southland WWTF other than Fugro, Inc. research that is already in progress. Vote 5-0.

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

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E-5) CONSIDER ADOPTION OF WATER AND SEWER MASTER PLAN (continued)

Mr. Buel responded to the public comments.

- NCS D is evaluating its options and has not picked a single location
- NCS D has not tendered an offer to Mr. Silva – intent of appraisal was to determine value
- NCS D has contacted Mr. Silva’s neighbors
- Clogging of the lines is not a problem; it is the 40’ blanket of clay under the WWTF that prevents the perched water from percolating.
- With the retrofit of the WWTF, nitrates will be reduced
- There is no proposal or concept for percolation ponds on Mesa Road
- The 3 areas are on a map in Appendix J of the Water and Sewer Master Plan
- Drill tests have been done to determine soil profiles
- Visual and odor impacts would be addressed in an EIR
- The water issues are being addressed. The Supplemental Water Committee meets on January 22, 2008.
- The repair of the existing WWTF is being looked at by Fugro, Inc. and their findings will be presented at the February 4, 2008, Committee Meeting.

Upon motion by Director Eby and Seconded by Director Trotter the Board of Directors unanimously approved the adoption of the Water and Sewer Master plan as amended by the prior motion. Vote 5-0.

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

At 2:27 p.m. the Board of Directors took a 10 minute break and Director Trotter left the meeting. The Board of Directors heard Item E-3 next.

03:44:03

E-6) INTRODUCE ORDINANCE AMENDING REIMBURSEMENT POLICY AND SET SECOND HEARING FOR 1/23/08

This item was heard after Item E-3.

Bruce Buel, General Manager, reviewed the proposed Ordinance. Corrections were made to Section 5.01.010(C) remove the word “any” on line 2. Capitalize District Engineer throughout the document. 5.01.030 add a section (C) to state Ineligible Costs and other minor typographical errors.

There was no public comment. Upon motion of Director Vierheilg and seconded by Director Harrison, the Board of Directors unanimously agreed to read the Ordinance in title only. Vote 4-0.

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

Upon motion of Director Harrison and seconded by Director Vierheilg, the Board of Directors unanimously approved the introduction of the revised Ordinance and set January 23, 2008, as the date for the Public Hearing. Vote 4-0.

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

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03:51:59

- E-7) RESTRUCTURE FINANCE, AUDIT AND PERSONNEL COMMITTEE; CONFIRM 2008 COMMITTEE ASSIGNMENTS AND CONFIRM 2008 BOARD MEMBER DELEGATIONS TO AGENCIES

Bruce Buel, General Manager, reviewed the President's recommendation to restructure the Finance, Audit and Personnel Committee. There was no public comment. Upon motion of Director Harrison and seconded by Director Eby, the Board of Directors unanimously approved the Committees. Vote 4-0.

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

03:53:33

- E-8) CONSIDER PRESIDENT'S PROPOSAL TO SUSPEND PCAS MEETINGS UNTIL AFTER VOTE ON ACTIVATION OF PARKS AUTHORITY

Bruce Buel, General Manager, presented the President's request to suspend the PCAS meetings until after the vote on activation of parks authority. President Winn stated that Chairman Trogden was supportive of the decision. There was no public comment. Upon motion of Director Eby and seconded by Director Vierheilig, the Board of Directors voted to suspend the PCAS. Vote 3-1.

YES VOTES	NO VOTES	ABSENT
Director Eby, Vierheilig and Winn	Director Harrison	Director Trotter

- E-9) NOT USED

03:55:53

- F. MANAGER'S REPORT

Bruce Buel, General Manager, was available to answer questions. There was no public comment and no questions from the Board of Directors.

- G. COMMITTEE REPORTS

There were no committee reports and no public comment.

03:59:18

- H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Vierheilig requested Staff to publish the calendar of events in the Manager's Report. Director Eby handed out a letter "Intent-to-Serve Moratorium" and asked for this item to be placed on the Board Agenda.

- I. CLOSED SESSION was heard at 12:20 p.m.

04:03:06

- ADJOURN

President Winn adjourned the meeting at 3:45 p.m.