

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 43 - Years of Service 1965 - 2008

MINUTES

FEBRUARY 27, 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.

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, the following directors were present:
Directors Eby, Trotter, Harrison and Winn.
Director Vierheilig was absent.

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) NCSD SPECIAL COUNSEL JIM MARKMAN

Jim Markman, the District's Special Water Counsel, gave a report on the Santa Maria Groundwater Litigation. He reviewed a series of slides, including trial exhibits and parts of the judgment.

The slide names included:

- Exhibits C-3, C-9, C-11, and the first page of the active part of the judgment
- Basic Declarations Contained in the Judgment
- Allocation and Denial of Rights
- Injunctions Issued by the Court
- Settlement Stipulation is Incorporated in the Judgment
- Recognition and Protection of Rights of Stipulating Parties
- Groundwater Monitoring (IV D.)
- The Nipomo Mesa Management Area Physical Solution (Part VI)
- Impact on Mesa Water Production Rights
- Nipomo Mesa Management Area Technical Group
- Area of Use Vs Areas of Supply

The Board asked questions of Mr. Markman. The court has appointed the agriculture representative – Carl Holloway. When asked if parties can join the stipulating parties at this time, Mr. Markman stated that there have been some who have joined.

C-1) NCSD SPECIAL COUNSEL JIM MARKMAN (continued)

The following member of the public spoke:

John Snyder, Nipomo resident – recommended that the Board form a sub-committee to attend the court hearings in Santa Clara. He stated that some critical points were missed in Mr. Markman's presentation. The stipulation is null and void if the PUC doesn't approve it and approve the funding. He also stated that there was some confusion in the maps – the AB 3030 Plan.

Mr. Markman commented on Mr. Snyder's comments correcting some errors.

The Board thanked Mr. Markman for his presentation.

C-2) NCSD SUPERINTENDENT TINA GRIETENS

Update re: Utility Operations

NCSD Utility Superintendent, Tina Grietens, gave an overview of the Utility Operations for the first three weeks she was employed at the District. The report is included in the Manager's Report in Item F.

- Water leaks
- BL Wastewater Treatment Facility pond liner
- DHS Compliance
- Southland WWTF pond pumping
- Lift station pump replacement
- Fire hydrant replacements
- Purchase order procedure
- Budget preparation
- Blacklake WWTF aerator adjustment

The Board thanked Ms. Grietens for the report.

C-3) NCSD DISTRICT WATER CONSERVATION COORDINATOR

Update on Water Conservation Activities

NCSD Water Conservation Coordinator, Celeste Whitlow, reviewed the reports included in the Manager's Report in Item F.

- Grant Funding
- Calif. Urban Water Conservation Council Update
- Public education and outreach
- District landscape refurbishment update
- District office tree removal
- Tree grate installation
- Qualifications for landscape irrigation contractors (water efficiency)

The Board thanked Ms. Whitlow for the report.

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

Receive Announcements from Directors Items of District & Community Interest

Director Eby

The South County Advisory Council's (SCAC) annual elections will be held March 17th. Applications for open positions are due by March 10. For information, go to the SCAC web site at scac.ca.gov. There are nine open positions.

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- C-4) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST (continued)
Receive Announcements from Directors Items of District & Community Interest

Director Winn

San Luis Obispo County Planning Commission will be meeting February 28, 2008, at 8:45 a.m. to discuss the County's "Framework for Planning."

The Board of Supervisors on February 26th passed contract for an EIR for some inclusionary housing ordinances.

He and Mr. Buel will be leaving Wednesday, March 5th, to meet with government officials in Washington, D.C., concerning funding the supplemental water project.

Wed. March 5th, Water Resources Advisory Committee will be meeting to discuss the draft EIR for Santa Margarita Ranch proposal. It could set a precedent if approved.

Director Eby will be attending as NCS D's representative.

- C-5) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

The following members of the public spoke:

Jessie Silva, Nipomo resident - stated that he understands that the purchase of the land at 776 Mesa Road has been ruled out. There has been a sign posted about two feet from his driveway. He has been bothered at different hours of the night by people knocking on his door. Could the District notify the person who posted the sign nearby to remove it?

Bill Nelson, NCS D resident – stated that the access to the Woodgreen Lift Station has been a project in the budget for two years. He stated that since the pump is being replaced, it would be a good time to note if the District's truck can get down to the lift station to do necessary work without having to install a cement road.

Bruce Buel, General Manager, responded that staff plans to work with Mr. Silva to inform the property owner concerning the sign.

The District is working with Blacklake residents to find an acceptable solution to the access road to the lift station. It is a concern to prevent trucks from getting stuck in mud.

D. CONSENT AGENDA

Bruce Buel, General Manager, asked that the Board pull Item D-1, D-4 and D-5 for separate consideration. Director Eby asked to pull Item D-7 for separate consideration.

- D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of 2/13/08 Meeting
- D-3) ACCEPT SHOP OFFICE AND AUTHORIZE RECORDATION OF NOTICE OF COMPLETION
- D-6) ADOPT RESOLUTION CONFIRMING CONTINUED USE OF AUTOMATIC CLEARINGHOUSE ORIGINATION FOR DEBIT TRANSACTIONS FOR BILLING AND PAYROLL VIA RABOBANK

**RESOLUTION NO. 2008-1064
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
CONFIRMING CONTINUED USE OF AUTOMATIC CLEARING
HOUSE (ACH) ORIGINATION FOR DEBIT TRANSACTIONS
FOR BILLING AND PAYROLL VIA RABOBANK**

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D. CONSENT AGENDA (continued)

D-8) REVISE POLICY (RESOLUTION NO. 2005-932) AUTHORIZING PROCESSING OF ENGINEERING SERVICES TASK ORDERS

RESOLUTION NO. 2008-1065
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ESTABLISHING THE POLICIES AND PROCEDURES FOR EXECUTING TASK ORDERS AND CONTRACTS FOR ENGINEERING SERVICES UNDER NON-EMERGENCY AND EMERGENCY SITUATIONS

D-9) REVISE PERSONNEL POLICY TO ADD PART TIME UTILITY CLERICAL POSITION AND AUTHORIZE GENERAL MANAGER TO HIRE

RESOLUTION NO. 2008-1066
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AMENDING THE DISTRICT PERSONNEL POLICY TO ADD THE POSITION OF UTILITY OFFICE ASSISTANT

D-10) RECEIVE 2007 ANNUAL UTILITY REPORT

The Board had some changes to the Minutes of the February 13th meeting. Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously approved Items D-2, D-3, D-6, D-8, D-9 & D-10 of the Consent Agenda, as amended. There was no public comment. Vote 4-0.

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

The Board then discussed the remaining items.

D-1) APPROVE WARRANTS

Director Vierheilg had previously asked Mr. Buel to pull this item to discuss the warrant to be paid to SP Maintenance. Director Vierheilg had reported that his street was not swept on the day it was supposed to have been swept. Staff acknowledged Director Vierheilg's concern and will address it with SP Maintenance.

The following member of the public spoke:

Joe Dominic, District resident – asked the Board for clarification of warrant to be paid to Boyle Engineering for the Waterline Intertie Project.

Mr. Buel explained that Boyle had been commissioned to do preliminary research for the waterline intertie project already in process. Boyle will be presenting a report on the project to the Supplemental Water Project Committee April 14, 2008, at 1:00 p.m. at the NCSD office.

Upon motion by Director Trotter and seconded by Director Eby, the Board unanimously approved the Warrants. Vote 4-0.

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

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D. CONSENT AGENDA (continued)

D-4) REVISE STANDARD SPECIFICATIONS

Jon Seitz, District Legal Counsel, explained the suggestion to better define a sag in a water or sewer line. There were other changes to the Standard Specifications that were noted. Upon motion by Director Eby and seconded by Director Harrison, the Board unanimously agreed to continue this item to another date. There was no public comment. Vote 4-0.

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

D-5) ADOPT CONFINED SPACE POLICY

Bruce Buel, General Manager, explained that Title 8 of the California Code of Regulations requires employers to have an effective Confined Space policy. He reviewed the suggested changes by Director Vierheilig. The Board discussed the policy. Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously adopted Resolution 2008-1064, including proposed edits. There was no public comment. Vote 4-0.

RESOLUTION NO. 2008-1064
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A CONFINED SPACE POLICY

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

D-7) APPOINT REPRESENTATIVES TO NMMA TECHNICAL GROUP

Bruce Buel, General Manager, explained that Judge Komar finalized his decision, including the formation of the Nipomo Mesa Management Area (NMMA) Technical Group. The Board discussed why all the suggested members were necessary. The Technical Group is now obligated to develop a monitoring program, emergency water shortage triggers and annual reports.

Upon motion by Director Eby and seconded by Director Trotter, the Board unanimously adopted staff's recommendation, as amended, to appoint Bob Beeby, Brad Newton, Bruce Buel and Jon Seitz as Technical Group representatives with ongoing consultation with the Board and direction provided by the Board on all policy issues. There was no public comment. Vote 4-0.

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

The Board took a break at 11:24 a.m. and reconvened at 11:36 a.m.

02:24:50

E. ADMINISTRATIVE ITEMS

President Winn informed the public that the Board would consider E-1 at this time and then go into Closed Session. He asked if there was any public comment on Items E2, E-3 or E-4. There was no public comment.

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02:25:10

E-1) CONSIDER MARINAI COMMERCIAL INTENT-TO-SERVE APPLICATION FOR 71-UNIT HOTEL ON HILL STREET (APN 092-130-053)

Bruce Buel, General Manager, reviewed the request for water and sewer service for a 71-room hotel commercial development at 549 Hill Street.

The Board asked questions. Director Eby suggested that the Board continue this request until after the Board receives the water level report expected from SAIC.

The following member of the public spoke:

Robert Winslow, from EDA and representative for the project, stated that this project was previously approved by the Board. There were some concerns about financial backing. He asked that the Board consider approving the project again.

The Board discussed that in January 2008, SAIC told the District that it would be out of water in 12-14 years. The interim supplemental water project may take 3+ years to complete. The Board is looking for (1) a Memorandum of Understanding, (2) purchase of land for the pipeline, and (3) a formal agreement with the City of Santa Maria that they will sell us the water.

Upon motion by Director Trotter and seconded by Director Eby, the Board agreed to continue this item until after the Board has received and considered the groundwater storage report from SAIC, which will include the Spring groundwater level readings. Vote 3-1 with Director Harrison voting no.

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

The Board directed staff to put an item on the next agenda to consider suspending the processing of Intent-to-Serve letters.

Closed Session next.

02:46:15

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the items to be considered in Closed Session pursuant to Government Code Section 54956.9, which allows the Board to go into 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)

02:46:42

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

President Winn adjourned the meeting to Closed Session at 11:58 a.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board reconvened at 1:08 p.m.

Jon Seitz, District Legal Counsel reported out of Closed Session.

1. Jim Markman, District Special Water Counsel, gave an update to the Board. There was no reportable action.
2. The Board heard an update. There was no reportable action.
3. The Board heard an update. There was no reportable action.
4. The Board heard an update on the case also known as DeGroot litigation, where the Board is challenging the General Plan Amendment to allow this project to go forward. The Board received for its records and files the current Notice of Motion for Entry and Judgment. There is a settlement in this litigation. The hearing date is currently set for March 13, 2008. With a 4-0 vote with Director Vierheilg absent, the Board authorized the District to file an appeal of the Planning Commission's February 14, 2008 approval of project.

Item E-2 to be considered next.

02:49:51

E-2) REVIEW STRATEGIC PLAN WORKSHOP REPORT AND ORDER IMPLEMENTATION OF RECOMMENDATIONS SUBJECT TO FUNDING IN FY2008-09 BUDGET

Bruce Buel, General Manager, reviewed the report from the strategic plan workshop held November 30 and December 1, 2007.

Director Winn temporarily left the meeting at 1:09 p.m.

There was no public comment.

Upon motion by Director Trotter and seconded by Director Eby, the Board unanimously agreed to the authorize staff to proceed with implementing the recommendations listed in the Board letter. Vote 3-0.

2007 STRATEGIC PLAN REPORT AGREEMENTS

- 1A1. Explore Purchase of Bartelson Ranch Water (Top of Page 7)
BACKGROUND - Staff has determined that the Bartelson Ranch is within the Northern Cities Management Area and the Stipulated Judgment limits development of its water.
RECOMMENDATION -- No additional action is recommended.
- 1B1. Communicate Cost of Supplemental Water (Bottom of Page 7)
BACKGROUND - Staff published an article on Supplemental Water in the January "District News" (attached) and expects to publish more detailed information as it becomes available. Boyle is scheduled to publish their revised project report in April including cost estimates for the expected project phases. See Recommendation 5B below regarding the quarterly newsletter.
RECOMMENDATION - Staff strongly supports maximum public disclosure on the cost of developing supplemental water.
- 1B2. Interact with Media on NCSD Issues (Bottom of Page 7)
BACKGROUND - Staff supplies agendas to the media, responds to inquiries, issues press releases, and participates in interviews.
RECOMMENDATION - Staff recommends continued outreach.
- 1B3. Promote Water Conservation via Public Information Program (Bottom Page 7)
BACKGROUND - Staff is pursuing implementation of the adopted Water Conservation Program.
RECOMMENDATION - Staff recommends continued outreach

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E-2) REVIEW STRATEGIC PLAN WORKSHOP REPORT AND ORDER IMPLEMENTATION OF RECOMMENDATIONS SUBJECT TO FUNDING IN FY2008-09 BUDGET (continued)

- 2. Monitor OWTS Regulations (Top of Page 8)
BACKGROUND - Staff is monitoring the RWQCB's Draft Amendments to the Basin Plan.
RECOMMENDATION - Staff will present all future RWQCB, SWRCH and County drafts to the Board for consideration.
- 3. Publish Project Development Guidelines (Top of Page 9)
BACKGROUND - Staff is preparing the draft Guidelines for presentation to the Board.
RECOMMENDATION - Staff recommends that the Board set this item for the 6/25 Meeting.
- 4. Submit Parks Assessment Ballot to Property Owners (Top of Page 10)
BACKGROUND - Your Honorable Board has reviewed the Assessment Report, agreed to a draft funding plan, and set 3/12/08 as the hearing for initiation of the Zone of Benefit.
RECOMMENDATION - Staff recommends that the Board, on March 12, 2008, set the Protest Hearing for formation of the Zone of Benefit at your April 9, 2008 Board Meeting.
- 5A. Upgrade NCS D Website to Feature Projects (Middle of Page 10)
BACKGROUND – Staff has initiated the requested revisions to NCS D's Website and expects to complete those revisions by the end of March.
RECOMMENDATION – No additional action necessary.
- 5B. Publish quarterly newsletter (Middle of Page 10)
BACKGROUND – Staff did publish the first edition of the "District News" in January (attached) and your Honorable Board is scheduled to consider authorizing publication of a quarterly newsletter on this agenda.
RECOMMENDATION – Staff recommends that the Board authorize quarterly publication of the District News.
- 6A. Consider Solar Power Projects Proposal (Top of Page 11)
BACKGROUND - Staff expects to propose funding for retrofit of the shop office with solar panels in the FY08-09 Budget per the W&S Master Plan.
RECOMMENDATION – Staff recommends that the Board consider inclusion of funding when you adopt the FY08-09 Budget.
- 6B. Submit Proposal for Solar Power at Southland WWTF (Top of Page 11)
BACKGROUND – Staff previously presented an unsolicited proposal for development of solar power at the Southland WWTF to the Southland WWTF upgrade committee and the Committee directed staff to develop a proposal for an unbiased evaluation of technology to the Board. Staff presented a proposal to your Honorable Board, which was rejected. Staff expects to include the concept of integrating solar power into the Draft Master Plan, when the Master Plan is presented to the Board.
RECOMMENDATION – Staff recommends that the Board consider inclusion of solar power into the Southland WWTF Upgrade Project Master Plan when the Plan is presented to the Board.
- 7A&B. Publish Information/Proposal re Salt Management (Bottom of Page 11)
BACKGROUND – Staff published an article on regenerative water softeners in the January 2008 "District News" and expects to publish similar articles in future editions. Staff also expects to propose funding for development of a Salt Management Program in the FY2008-2009 Budget.
RECOMMENDATION – staff recommends that the Board consider inclusion of funding when you adopt the FY2008-09 Budget.
- 8. President Winn to discuss Property Taxes with Supervisor Achadjian (Page 12)
BACKGROUND/**RECOMMENDATION** – Staff supports the proposal for President Winn to discuss Property Taxes with Supervisor Achadjian with the caveat that there is a very low probability of change.

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

Director Winn returned to the meeting at 1:14 p.m.

02:52:00

E-3) AUTHORIZE QUARTERLY NEWSLETTER

Bruce Buel, General Manager, reviewed the newsletter that was mailed to the customers in January at a cost of approx. \$2,500. Staff is requesting to send out a quarterly newsletter.

The Board discussed the newsletter and the possibility of having the Board review the draft before it is mailed out.

Upon motion by Director Trotter and seconded by Director Eby, the Board unanimously agreed to authorize staff to publish a quarterly newsletter and include funding in the FY2008-09 Budget to cover costs. There was no public comment. Vote 4-0.

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

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03:01:08

E-4) ADOPT REVISED BOARD BYLAWS

Jon Seitz, District Legal Counsel, reviewed the edited version of the Board By Laws. The Board discussed the policy.

Upon motion by Director Harrison, seconded by Director Eby, the Board unanimously approved Resolution 2008-1068, as amended. There was no public comment. Vote 4-0.

**RESOLUTION NO. 2008-1068
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING AMENDED BY-LAWS (2008 UPDATE)**

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

03:11:40

F. MANAGER'S REPORT

Bruce Buel, General Manager, stated that the Manager's Report stands as presented. He reviewed the letter from Tom Martin, General Manager of the South County Sanitary Service. The Board asked questions. An item regarding South County Sanitary Service will be on the March 12, 2008 agenda.

03:21:50

G. COMMITTEE REPORTS

1. Feb 11, 2008 Ad Hoc Blacklake Communications Committee Meeting.
2. Feb. 25, 2008 Supplemental Water Standing Committee Meeting.

Directors Eby and Trotter gave a brief overview of the meeting. Minutes to the meeting will be in the next Board Packet.

Mr. Buel expounded on a statement made by David Gardener that our groundwater basin has a very shallow gradient. Underneath the ocean floor there is a tremendous amount of fresh water that is flowing out under the bed of the ocean. Trying to effectively capture ocean water may be more difficult than we previously thought.

03:29:27

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn stated that he will be attending the San Luis Obispo County Planning Commission meeting, Thursday, February 28, 2008.

He asked about the Public Comment Period at the beginning of each meeting.

He would like to have the written staff reports in the front of the packet where they report rather than in back in the Manager's Report.

ADJOURN

President Winn adjourned the meeting at 1:54 p.m.

➤ **THE NEXT REGULAR BOARD MEETING IS MARCH 12, 2008.**

TENTATIVELY SCHEDULED ITEMS INCLUDE:

- o Merger of Water Funds
- o Miller Park Assessment