

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 43 - Years of Service 1965 - 2008

MINUTES

MARCH 26, 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 VIERHEILIG, **DIRECTOR**
ED EBY, **DIRECTOR**

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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.

00:00:29

B. ROLL CALL

At Roll Call, all Board members were present.

00:00:52

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) BRAD NEWTON OF SAIC

Presentations re: Fall Groundwater Storage Volumes and Inter-Basin Transfers

Dr. Brad Newton of SAIC (Science Applications International Corporation) presented information concerning the Fall Groundwater Storage Volumes and Inter-Basin Transfers.

The slides presented:

- Groundwater in Storage and the Sub-surface Flow
- The Scope of Work planned for Nipomo Community Services District.
 - Groundwater in Storage (1975 – 2007)
 - Spring and Fall GWS
 - Groundwater Surface Elevation Measurements
 - Subsurface Flow Estimate (2007)
 - Based on GSE measurements from Spring 2007
 - Methodology the same as previous analysis
- Questions
 1. Will Nipomo Mesa be out of water in 2 years?
 2. How does the current Spring GWS compared to historical values?
 3. Is there any indication of sea water intrusion to the principal production aquifer?
- Rainfall statistics
- Groundwater in Storage and Sub-surface Flow for 1975 through 2007.
- Graph showing Spring and Fall Groundwater in Storage above Mean Sea Level for Phase II Boundary
- Groundwater Surface Elevations for 1975, 1980, 1985 and 1990
- Groundwater Surface Elevations for 1995, 2000, 2006 and 2007
- Flow Zones Used in Subsurface Row Estimate
- Table 1 - Subsurface flow across the boundary (presented as an annual total)

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C-1) BRAD NEWTON OF SAIC (Continued)

- Questions?
 1. Spring and Fall Groundwater in Storage. Is the difference better represented with a “non-linear” trend line?
 2. Why are some years (e.g. 1983) not included in the estimate of GWS?
 3. Does the current consumption exceed long-term recharge from rainfall?
- Consumptive Use - Average Recharge from Rainfall
- Groundwater Elevations at Coastal Monitoring Location
- Water Quality at Coastal Monitoring Location
- Figure 3 - NMMA Service Areas

The Board discussed the information with Dr. Newton.

Dr. Newton stated that SAIC sent information to the Technical Group.

The following members of the public spoke:

Kevin Beauchamp, Nipomo resident – stated that in 1992, there seemed to be little correlation between the rainfall and the groundwater storage. He asked if we had salt water intrusion when the water level was at its lowest. Is there flow from somewhere other than rainfall? Why is there a doomsday scenario now when in 1992 the groundwater measurement was at its lowest? Do you measure the flow west to east as well as east to west? If current consumption exceeds rainfall, how long before we have salt water intrusion?

John Brantingham, Nipomo resident – stated that the report was nicely done and mostly easy to understand. He asked if he could get a copy of Table 1 of the report. He stated he is discouraged with the boundaries drawn by DWR. He urged the Board to look at the watershed numbers and see if there is a correlation between the increase in the available water on the Mesa and the large amounts that fall on the hills and head down to this area. He commended the Board for better management of the pumping.

Ingmar Laurensen, Nipomo resident – asked where the closest adjacent study comes from. Are there the same numbers from Santa Maria or Arroyo Grande?

Bill Petrick, NCS D resident – stated that the analysis used in the report should be performed by the three Technical Groups assigned to monitor the health of the Santa Maria basin. He stated that the second report has serious modeling deficiencies and is useless without validation. He stated that Darcy's Law is an experimentally derived equation based on small-scale measurements. The calculations can be 40% less to 320 times greater than those stated in the report. He stated that programs are available from USGS and DWR to do the calculations. The Technical Group should take over the report.

Bruce Buel, General Manager, and Dr. Newton answered some of the *questions* from the public.

Sea-water intrusion – We have not experienced sea water intrusion yet. During that low year (1992) there is no data that tells where the sea water gradient was. In the whole basin view, the judge determined there is the possibility to mine water in dry years and replenish in wet years.

Little correlation between rainfall and groundwater storage – Dr. Newton stated that he would repeat what he provided earlier.

Flow measurements from the ocean to the land – That is not being monitored.

C-1) BRAD NEWTON OF SAIC (Continued)

When will we be out of water? – It is impossible to predict what will happen. There is no way to know if there will be wet years or dry years ahead.

Copy of Table 1 of the report – There were some copies on the back table. It is available on the web site and in the District office.

Boundaries and why the District is using the Nipomo Mesa Management area and not the entire basin - The boundary lines are largely political and not physical watersheds or groundwater basins. It will be a challenge for the Technical Group to be consistent.

Dr. Newton suggested bringing Mr. Bachman from Oxnard to the District to discuss the very expensive challenges faced by sea water intrusion experienced in Oxnard.

Tim Cleath concept of drawing down the basin and allowing inflow from our adjoining areas – Would that solve our problem? - Absolutely not.

Request that the District seek feedback from the Santa Maria Basin Technical Group and Northern Cities Technical Group - There has been some discussion with the Northern Cities technical representatives and at least one joint meeting is expected. The Santa Maria Basin Technical Group meeting is still pending. Boundary issues must be resolved within the prescribed time frame for the monitoring program. The Technical Group could establish the protocols by which the boundary conditions are rectified between the different management areas.

Criticized use of Darcy's Law in the subsurface flow memorandum – Results needed to be compatible with previous studies by other agencies (DWR, County, etc.) so the number developed has meaning in context with the historical work. Darcy's Law is the standard practice used in these conditions. Alternatively, a finite element difference model like Op Flow could be developed in place of Darcy's Law and equations to solve flow in and out of those little boxes could be highly complicated, complex and non-linear, calibrated with back data and is much higher cost. SAIC does not have that model.

Why are we doing this at all? - The District is concerned with the health of the Nipomo Mesa Groundwater Basin. This data will be shared with the Technical Group. These studies could further the understanding of the Basin. Looking at the Fall readings as well as the Spring, the Board can get a better view of the annual cycles. The Emergency Water Regulations may consider both the Spring and the Fall readings.

Will the Technical Group evaluate this information? – The Technical Group is focused on a well-monitoring program to take to the court for approval. We are ahead of schedule for the court deadline. The Technical Group for the NMMA will use some of the analysis in the monitoring program. Once the monitoring program is approved by the court, the Technical Group will use the monitoring program to develop some analysis that it will report back to the court.

Managing the pumping – It seems to be a matter of rainfall.

Director Eby read a section from a booklet, dated 1931 written by the US Department of the Interior, that stated that the use of Darcy's Law for measurement was appropriate then; and it still is today.

The Board took a break at 11:01 a.m. and reconvened at 11:15 a.m.

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C-2) MIKE DIMILO OF SCIENCE DISCOVERY

Presentation re: Water Conservation Education Outreach Proposal

Mike DiMilo of Science Discovery gave an overview of what his company presents to schools in terms of Water Conservation Education. He presented some slides showing the different types of services his company offers.

Director Vierheilig stated that the Conservation Committee should look into this.

Jon Seitz, District Legal Counsel, stated that the cost of such programs could possibly be shared among the other water purveyors.

Director Winn asked about integrating with the programs at the schools. Mr. DiMilo explained that his company has worked with other school districts.

There was no public comment.

The Board thanked him for his presentation.

C-3) NCSD WATER CONSERVATION COORDINATOR CELESTE WHITLOW

Update re: NCSD Conservation Activities

Celeste Whitlow, Water Conservation Specialist, reviewed the update presented in the Board packet.

- Grant funding update
 - Continue to learn the Department of Water Resources' grant process and its online grant filing program.
- California Urban Water Conservation Council Update
 - A plenary meeting was held on March 12, 2008 in San Diego at which time final application approval voting occurred, and the District became a full-fledged member of the CUWCC. Information has been received from the CUWCC.
- Learning printing/publishing software to facilitate and speed up the information distribution process.
- Updating NCSD Conservation website.
- Information on choosing a landscape maintenance company.
- Preparing for the May water conservation and septic system workshops.
- Received tree grates from foundry.
- General correspondence (complaint letter, letters to new customers).
- High-efficiency clothes washer program.
- Planning for formal launch of water conservation program.
- Execution of tree removal work order.
- Analysis of District water consumption for billing months January, February.

There was no public comment.

The Board thanked Mrs. Whitlow for her presentation.

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

Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig

Saturday, April 5, 2008, Central Coast Greenhouse Growers Association (CCGGA) Open House, 9:00 a.m. - 3:00 p.m.

Friday, April 11, 2008, 9:00 a.m. at Native Sons Nursery – US Fish & Wildlife Service is hosting a workshop with a group of botanists on rare and endangered species.

Director Eby

The NOAA predicted rainfall for April has a 33% chance of being below normal – the effects of La Niña.

April 5, 2008, Save the Mesa Supervisor's Debate with Hill and Lenthall. Harry Ovitt may attend. It will be filmed by AGP Video.

SCAC met Monday, March 24, 2008. The new Chair is Dick Wright and the new Vice Chair is Dan Gaddis.

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

Director Harrison

The Rotary Club will be barbequing at the Hesse Nursery during the CCGGA Open House April 5, 2008.

April 5, 2008, 5:00 p.m. – Cal Trans Forum for Willow Road in the District Boardroom.

Director Winn

He encouraged people to attend the CCGGA event to get an education on the efficient use of water by modern agriculture.

Friday, March 28, 2008 – deadline for comment on the EIR for the Santa Margarita Ranch Development.

Saturday, March 29, 2008 - CalFire will be having a CPR program at the Nipomo Library 1:00-6:00 p.m. The class is not for certification. CalFire would like to receive an RSVP at 929-3911 if anyone is planning to attend.

Wednesday, April 2, 2008 at 1:30 in the SLO Library, the Water Resources Advisory Committee will meet.

Friday, April 4, 2008 – A number of motions will be heard in court in Santa Clara. He and Director Vierheilig will be attending.

Monday, April 7, 2008, a meeting is planned with NCSD, SCAC and County staff to discuss the Oakglen Specific Plan if all parties are able to attend.

C-5) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Al Barrow, Los Osos resident, wished to speak at this time because he is unable to remain for that portion of the meeting concerning E-2 to review draft amendments to RWQCB Basin Plan relative to on-site waste management systems. He stated that the deadline to make comment is April 7, 2008. He reviewed some of the proposed requirements for on-site septic systems.

The Board decided to consider Item E-1 next.

The Consent Agenda will be considered after the lunch break.

E. ADMINISTRATIVE ITEMS

02:45:28

E-1) CONSIDER REVISED WATER AND SEWER INTENT-TO-SERVE APPLICATIONS FOR HILL STREET HOTEL AND NIPOMO COMMONS COMMERCIAL PROJECTS

Bruce Buel, General Manager, explained that at the March 12, 2008 Board meeting, the Board adopted Resolution 2008-1070 temporarily suspending processing of applications for Intent-to-Serve letters. On March 17, 2008, the District received a letter from EDA, the representative for the proposed 71-room hotel, requesting reconsideration of an Intent-to-Serve letter for the project. The developers of the adjacent project, Tract 2611, proposed to reduce its water demand in order to allocate its water to the hotel project.

The Board discussed the proposed revision of the water demand in the original application for service. Jon Seitz, District Legal Counsel, noted that one way to limit waste in perpetuity would be a tiered rate structure. The Draft Emergency Water Conservation Plan could limit the water use also.

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E-1) CONSIDER REVISED WATER AND SEWER INTENT-TO-SERVE APPLICATIONS FOR HILL STREET HOTEL AND NIPOMO COMMONS COMMERCIAL PROJECTS (continued)

Robert Winslow of EDA and representative for the hotel project stated that the property has an existing water meter. It is possible to convert the existing building to a gym with showers. The proposed project would be using less water than originally planned.

Rob Marinai, part owner and applicant stated that with the current economic conditions, the project needs to move forward now.

Director Eby made a motion to continue the Intent-to-Serve letter without prejudice until the District finds supplemental water. Director Trotter seconded the motion.

Vote 2-3 with Directors Vierheilig, Harrison and Winn voting no.

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

Upon motion by Director Harrison and seconded by Director Vierheilig, the Board agreed to issue an Intent-to-Serve letter for the hotel with the conditions listed in the Board letter and to re-issue an Intent-to-Serve letter for Tract 2611 with a condition to limit services to the project. Also all irrigation will be drip. The hotel letter will be issued after all owners counter-sign the Tract 2611 Intent-to-Serve letter. Vote 4-1 with Director Eby voting no.

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

The Board decided to go to Closed Session next.

The Consent Agenda and the remaining items will be considered after the Closed Session.

03:27:11

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 NCS (SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES).
2. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION GC§54956.9 MARIA VISTA VS. NCS (CASE NO. CV 040877), MARIA VISTA VS. NCS (CASE NO. CV 061079), AND MARIA VISTA VS. LINDA VISTA FARMS, NCS 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. NCS 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; NCS VS. SLO COUNTY (CASE NO. CV 070066)
5. CONFERENCE WITH LEGAL COUNSEL RE: INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9c (2 POTENTIAL CASES)

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I. CLOSED SESSION ANNOUNCEMENTS (CONTINUED)

6. CONFERENCE WITH LEGAL COUNSEL RE: SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9b (1 POTENTIAL CASE) – PAT EBY THREAT OF LEGAL ACTION TENDERED TO BOARD AT MARCH 12, 2008 BOARD MEETING

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

03:28:56

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:44 p.m.

03:29:10

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

The Board reconvened at 2:02 p.m.

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

The Board heard an update on the items listed above.

Item 1-4 had no reportable action.

Item 5 – With a 5-0 vote, the Board authorized legal counsel to seek right of entry for testing of the Pasquini property.

Item 6 – The Board discussed the matter but there was no reportable action.

03:30:50

F. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 3/12/08 Meeting

D-3) AUTHORIZE NEGOTIATIONS WITH SOUTH COUNTY SANITARY SERVICE FOR EXTENDING SOLID WASTE FRANCHISE AGREEMENT TERM

D-4) APPROVE 3.22% COLA FOR DISTRICT EMPLOYEES EFFECTIVE JULY 1, 2008

D-5) REVISE FY07-08 BUDGET

**RESOLUTION 2008-1071
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING THE 2007-2008 FISCAL YEAR BUDGET**

D-6) REVISE STANDARD SPECIFICATIONS

**RESOLUTION NO. 2008-1072
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REVISING NCSD'S STANDARD SPECIFICATIONS
FOR WATER AND SEWER SYSTEM IMPROVEMENTS**

Bruce Buel, General Manager, introduced the Consent Agenda. The Board agreed to pull Item D-7 for separate consideration.

Director Vierheilig stated the need to replace Appendix A of Section 7.20.60 of the District Code book to reflect the latest rates and charges.

Upon motion by Director Vierheilig and seconded by Director Eby, the Board approve Items D-1 through D-6 of the March 26, 2008 Consent Agenda. Vote 5-0.

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

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F. CONSENT AGENDA (CONTINUED)

D-7) ACCEPT NESTER TRACT 2499 WATER IMPROVEMENTS AND EASEMENT

Director Winn asked for clarification about the easements that were granted. Mr. Buel explained. Director Trotter asked about some ponding along Pomeroy Road.

Dana Touey, representative for Tract 2499, stated that there have been modifications that should eliminate the ponding.

Upon motion by Director Vierheilig and seconded by Director Harrison, the Board adopted Resolution 2008-1073 accepting the water system improvement for Tract 2499.

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

**RESOLUTION NO. 2008-1073
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING EASEMENTS, DECLARATION AND RESTRICTIVE COVENANTS
AND THE WATER IMPROVEMENTS FOR TRACT 2499 (NESTER)**

03:43:10

E-2) REVIEW DRAFT AMENDMENTS TO RWQCB BASIN PLAN RELATIVE TO ON-SITE WASTE MANAGEMENT SYSTEMS AND AUTHORIZE COMMENTS, IF ANY

Bruce Buel, General Manager, reviewed the draft amendment to the OWTS (on-site waste treatment systems) regulations. Mr. Buel asked the Board for comments to send to the Regional Water Quality Control Board (RWQCB) by April 9, 2008. The Board offered comments to be included in the letter to go to the Regional Board.

- The District would like to be notified and would like to participate in development of any management plan for Nipomo
- Evaluate economic impacts
- Definition and consistency
- Special District funding or expertise
- Who will be inspecting septic systems?

There was no public comment other than the one from Mr. Barrow earlier in the day.

04:14:05

E-3) DISCUSS OPTIONS TO MINIMIZE WASTEFUL USE OF WATER

Bruce Buel, General Manager, introduced the item.

Celeste Whitlow, Water Conservation Specialist, explained that the Board had previously asked for some criteria for landscape maintenance companies to follow to help prevent the wasteful use of water.

The Board discussed the flyer in the packet and how it could be used.

04:26:52

F. MANAGER'S REPORT

Bruce Buel, General Manager presented the report as submitted. There was no public comment.

G. COMMITTEE REPORT

There have been no committee meetings since the last Board meeting. The Southland Wastewater Treatment Facility Committee meeting originally planned for April 7, 2008, is deferred until later.

04:30:24

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Vierheilig

He asked that the letter sent by Ms. Barbara Ojeda become a part of the minutes. It is attached hereto. The letter protests construction costs of the proposed Miller Park in Nipomo being paid by NCSD.

Conservation news flyer received in the March billing with the statement that we may run out of sea-level groundwater in two years reflects badly on NCSD.

President Winn stated that the newsletter was discussed last month but that the newsletter had already been printed to be sent with the second phase of billing. It was agreed at that meeting that all future newsletters would be reviewed by the Board before releasing to the public

Director Vierheilig stated that the Blacklake sewer rates should be resolved first and the Blacklake water system merger can be dealt with afterward.

Director Winn

He stated that Steve Bachman should be invited to the NCSD Board meeting when the supplemental water is also being discussed.

ADJOURN

President Winn adjourned the meeting at 3:08 p.m.

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

- Sanitary Sewer Overflow Submittals
- Initiation of Landscape Maintenance District #1 Engineer's Report
- Merger of Town and Blacklake Water Systems