

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 43 - Years of Service 1965 - 2008

MINUTES

APRIL 9, 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**

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, all directors were present.

00:03:04

C. PRESENTATIONS AND PUBLIC COMMENT

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

Update re: Sheriff's Activities on Nipomo Mesa

Commander Hascall reported that burglaries have continued. About 20 have had the same modus operandi. He has asked the public to report any unusual activity or persons in the neighborhood.

An 18th Street Gang criminal, Alfredo Yopez, is suspected to be in the Nipomo area, possibly in the 100 block of Branch Street. Commander Hascall is asking that if anyone spots the gang member to notify the Sheriff's Department.

The Board thanked him for the report.

C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

Update re: CAL FIRE Activities on Nipomo Mesa

Battalion Chief, Bill Fisher of Cal Fire, reviewed the activity report for the month of March 2008. Nipomo Station 20 had 114 calls: 11 fires, 14 vehicle accidents, 64 medical, and 25 other. The Mesa Station 22 had 45 calls: 9 fires, 7 vehicle accidents, 22 medical, and 7 other.

The Nipomo Paid Call firefighters drilled on structure hose lays and vehicle extrication.

Station Twenty guys will be moving out of the old station to be torn down and moving into an old trailer on the site while a new building is being constructed.

There will be a fundraiser for Company Twenty Sunday, 4/13/08, in the Vons parking lot.

The Board thanked him for the report.

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

C-3) NCSD DISTRICT ENGINEER PETER SEVCIK
Update re: NCSD Engineering Activities

Peter Sevcik, District Engineer, reviewed the report in the Board packet. He gave an update on the following projects.

- Southland WWTF Upgrade
- Water and Sewer Master Plan
- Santa Maria Waterline Intertie Project
- Waterline Relocation for County Drainage Project
- Safety Program
- Other
 - Continued to manage and coordinate Replacement Study
 - Attended seminar on chlorine dioxide disinfection for wastewater and MasterFormat 2004 standardized construction specification format
 - Prepared monthly compliance reports for the water and sewer systems

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

Director Vierheilig

- Finance Audit Committee April 10, 2008, 9:00 a.m. to review the draft budget.
- Native Sons Nursery, April 11, 2008, 10-2:30 - US Wildlife holding a workshop on endangered species.
- Nipomo Native Garden Strategic Planning Workshop, April 12, 2008, Nipomo Library

Director Eby

- April 17th LAFCo meeting canceled**
- Supplemental Water Committee April 14, 2008, 1:00 p.m.
- Save The Mesa is sponsoring a forum for District 3 candidates. It will be taped by AGP Video to air on cable television. It can also be viewed at SLOSPAN.org. The candidates, Lenthall and Hill will be speaking to the variances to the General Plan.

**Information received after the meeting

"At the last NCSD meeting I announced that I received notice that the April LAFCO meeting was cancelled. Apparently something changed and there will be a meeting April 17 at 9 AM at the BOS chambers.

The key agenda items are a 626 acre annexation to the city of SLO in the airport area and the LAFCO budget." Ed Eby

Director Winn

- Director Vierheilig and Winn went to San Jose to the groundwater adjudication court. The judge ruled the landowner group as the loser and NCSD was the prevailing party. The landowner group will pay some of the legal fees that have been paid for Phases 4 & 5.
- April 8, 2008, SLO Board of Supervisors considered several issues:
On-site wastewater treatment systems and negotiations with Regional Water Quality Control Board:
 - Terms should be identified, Prop 218 vote would be required, question of fees, District does not have capacity for engineering or design
 - Biorn-Diani General Plan Amendment was approved. District's position was supported concerning requirements.
- Willow Road Extension Open House, April 9, 2008, starting at 5:00 p.m. Public Works and Cal Trans involved with the Open House.
- Hawthorne School, San Luis Obispo, April 10, 2008, 12:25 p.m. - presentation by the Science Discovery group as described in Item E-3 of today's NCSD meeting.

Nipomo Community Services District
REGULAR MEETING
MINUTES

C-5) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

The following member of the public spoke:

Bob Blair, NCSD resident, stated in regard to the septic tank regulations being considered by the Regional Board, that Nipomo does not need another bureaucracy. Union Asphalt was sold to a foreign interest so the money is going out of the states. He also stated that AJ Diani wanted to build a batch plant.

Director Winn commented that not all septic systems in the sandy areas work if they are on a clay lens.

Bruce Buel, General Manager, there will be a hearing Friday, May 9, 2008, in the Regional Board office at 9:00 a.m. The deadline for written comments has passed – April 7, 2008. These regulations would apply to everyone in the Region 3.

00:33:15

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 3/26/08 Meeting and 3/31/08 Special Meeting

D-3) ADOPT EXPOSURE & INFECTION CONTROL POLICY

RESOLUTION NO. 2008-1074
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING AN EXPOSURE AND INFECTION CONTROL POLICY

D-4) INITIATE PREPARATION OF ENGINEER'S REPORT FOR FY08-09 LANDSCAPE MAINTENANCE DISTRICT #1 ASSESSMENTS

RESOLUTION NO. 2008-1075
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT INITIATING PROCEEDINGS FOR ANNUAL
LEVY OF ASSESSMENTS FOR THE STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR
FISCAL YEAR 2008-2009 PURSUANT TO THE PROVISIONS OF PART 2 OF
DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

D-5) AUTHORIZE REQUEST TO SLO COUNTY TO ENFORCE PROHIBITION FOR NEW PRIVATE POTABLE WATER WELLS WITHIN DISTRICT PURSUANT TO COUNTY CODE SECTION 19.20.2366

D-6) ACCEPT NEWDOLL CO 04-0432 WATER AND SEWER IMPROVEMENTS

RESOLUTION NO. 2008-1076
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING EASEMENT, AGREEMENT FOR ADDITIONAL SEWER EASEMENT,
AND THE WATER AND SEWER IMPROVEMENTS FOR CO 04-0342 (NEWDOLL)

Director Eby requested to pull Item D-2 and D-5 for separate consideration. He also stated that Staff requested to make a minor amendment to the resolution in tem D-4. There was no public comment.

Upon motion by Director Vierheilg and seconded by Director Eby, the Board unanimously approved Item D-1, D-3, D-4 and D-6. Vote 5-0.

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

Nipomo Community Services District
REGULAR MEETING
MINUTES

D. CONSENT AGENDA (CONTINUED)

ITEM D-2

Director Eby asked to have a separate vote for the approval of the March 26th and March 31st Minutes because he was absent for the March 31, 2008 meeting.

Upon motion by Director Eby and seconded by Director Harrison, the Board unanimously approved the Minutes of the March 26, 2008 Regular Board Meeting. Vote 5-0.

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

Upon motion by Director Vierheilg and seconded by Director Harrison, the Board approved the Minutes of the March 31, 2008 Special Board Meeting. Vote 4-1 with Director Eby abstaining.

YES VOTES	ABSTAIN VOTES	ABSENT
Directors Vierheilg, Harrison, Trotter and Winn	Director Eby	None

ITEM D-5

Bruce Buel, General Manager, reviewed the need to request San Luis Obispo County to enforce prohibition for new private potable water wells within District pursuant to the existing County Code Section 19.20.2366. The Board discussed the code section. It was suggested that the four-hour pump test be changed to possibly 72 hours. Upon motion by Director Vierheilg and seconded by Director Eby, the Board unanimously authorized staff to mail letters to SLO County Planning and Health Departments requesting enforcement of the prohibition as set forth in County Code Section 19.20.2366, Section (b). There was no public comment. Vote 5-0.

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

The Board took a break at 9:45 a.m. and resumed the meeting at 9:58 a.m.

E. ADMINISTRATIVE ITEMS

00:45:52

E-1) CONSIDER OPTIONS FOR PROVIDING WATER SUPPLY TO BLACKLAKE

Bruce Buel, General Manager, explained the process that has been ongoing since April 2007, when the Board retained the Reed Group to prepare an equity analysis to evaluate the equity payment necessary for Blacklake Water Fund customers to pay to the Town Water Fund if a merger of the funds was to occur. There have been several meetings between the Board's Blacklake Committee and a committee of residents from Blacklake.

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

E-1) CONSIDER OPTIONS FOR PROVIDING WATER SUPPLY TO BLACKLAKE (continued)

Mr. Buel presented five possible solutions for equitably merging the two water system funds. He reviewed the "Comparison of 2009 Blacklake Bi-Monthly Water Cost Per Option" sheet handed out at the meeting. The Board discussed the different options.

COMPARISON OF 2009 BLACKLAKE BI-MONTHLY WATER COST PER OPTION

OPTION	BASE	USAGE	LITIGATION	SUBTOTAL	SURCHARGE	TOTAL
		*1				
1. Stand Alone	37.32	96	6.32	139.64	0	139.64
2. Bob Reed *2	24.52	65.6	6.32	96.44	35.52	131.96
3. March 12 Proposal *3	24.52	65.6	6.32	96.44	19.83	116.27
4. Vierheilig Proposal *2	24.52	65.6	6.32	96.44	1.79	98.23
5. Trotter Proposal *2	24.52	65.6	6.32	96.44	20.07	116.51

*1 Assumes 40 ccf/2 months consumption

*2 Assumes Surcharge Paid over 10 year term

Proposition 218 Protest Procedure Required

*3 Assumes Surcharge Paid over 23 year term

NOTE: 2009 adopted bi-monthly average Blacklake Water Rate is \$116.27

The following members of the public spoke:

Bill Petrick, NCSD resident – stated that there should be no equity surcharge to either party. He pointed out flaws in Options 1, 2, 3 and 5.

Pat Eby, Blacklake Management Association member and NCSD Oversight Committee – stated that after a meeting with Nancy Fleming, President of BLMA, who has agreed to bring all options before the BLMA Board on April 15th. Mrs. Eby also asked a few questions related to the merger and maintenance at Blacklake, which include: (1) Costs for second intertie and looping, (2) Repair of proposed holding tank, and (3) Process for merging the two systems, and (4) Process for merging the two funds.

Bill Nelson, NCSD resident – stated his thanks to the Board for the improvements to the water system serving Blacklake. He also stated that combing the two systems will simplify operations and accounting. He went on to say that of the five proposals, Proposal 5 identifies and determines the necessary costs required to adapt the Town water system when combining the two systems. Blacklake customers would still retain the right to Proposition 218 if they so demand and are willing to pay for it.

Ian Wallace, NCSD resident and member of the Oversight Committee – asked if an analysis was performed to see the effect on the Blacklake water system in the case of a fire in the Town system area. Would it require backup from the Blacklake system? He further stated that pipe velocity is not measured in cubic feet per second, but feet per second.

Nipomo Community Services District
REGULAR MEETING
MINUTES

E-1) CONSIDER OPTIONS FOR PROVIDING WATER SUPPLY TO BLACKLAKE (continued)

The Board discussed the public comments:

Option 3 would require a Prop 218 vote. Director Eby made a distinct determination of an annexation and a merger. An annexation is on paper and has conditions. Blacklake was annexed with the condition (at the insistence of the Blacklake community) that Blacklake be physically and financially separate and specifically not to be merged. A merger will physically and financially merge the two systems.

Director Winn would be interested in the results of some modeling of the scenario presented by Mr. Wallace.

Mr. Buel explained that the two connections between the two water systems have pressure reduction-pressure sustaining valves. There is no way the Blacklake storage can flow to Town. The transfer pump is transferring water out of the storage under our operation into the Town system.

Director Trotter asked for the sequence of events from this time forward. Mr. Buel explained that if the Board chooses one of the options presented in today's meeting, a draft ordinance for Board review will be brought back to the April 30th meeting and possibly a resolution calling a Proposition 218 vote. If the Board calls a Prop 218 protest proceeding, a date will be chosen; a notice will be prepared and mailed. Mr. Buel suggested at least one informational session be held at Blacklake. The residents will be given 45 days to return protest ballots. If there is less than a 50 percent protest, the Board would have the option to proceed.

Upon motion by Director Trotter and seconded by Director Vierheilig, the Board unanimously agreed to process Option No. 5. Vote 5-0/

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

THE BOARD CHOSE TO CONSIDER ITEM E-3 NEXT.

01:41:20

E-3) PARTICIPATE WITH PARTNERS IN RETAINING SCIENCE DISCOVERY TO PROVIDE WATER CONSERVATION CLASSROOM EDUCATION

Director Winn will be attending a presentation by Science Discovery at the Hawthorne School, April 10, 2008. He will report back to the Board at a later meeting. There was no public comment. Upon motion by Director Vierheilig and seconded by Director Eby, the Board agreed to table this item. Vote 5-0.

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

Nipomo Community Services District
REGULAR MEETING
MINUTES

01:42:50

E-2) APPROVE TOWN AND BLACKLAKE SANITARY SEWER SYSTEM MANAGEMENT PLAN GOALS AND ORGANIZATION ELEMENTS

Bruce Buel, General Manager, explained that the California State Water Resources Control Board adopted Order No. 2006-003, Statewide General Waste Discharge Requirements (WDR) for Wastewater Collection Agencies, on May 2, 2006. The WDR requires development of a Sewer System Management Plan (SSMP) and specifies monitoring, reporting and SSMP implementation requirements. A resolution approving the SSMP goals and organization elements is due by May 1, 2008.

The Board asked questions.

Peter Sevcik, District Engineer, talked to the Board about the proposal to video tape the entire sewer system over a period of five years and repeating some areas at different intervals.

The following member of the public spoke:

Bill Petrick, NCSD resident – stated the Board should consider the following:

- Consider Section 13 iv – ii should all be included
- Copy the WDR wording for the goals
- The District does not have a plan
- NCSD needs to work with the Blacklake experts and community

Mr. Sevcik commented that all the proposed goals came from the Statewide General Waste Discharge Requirements (WDR) for Wastewater Collection Agencies.

Upon motion by Director Harrison and seconded by Director Trotter, the Board unanimously adopted Resolution 2008-1077 approving the Sewer System Management Plan Goals and Organization Elements. Vote 5-0.

**RESOLUTION NO. 2008-1077
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING TOWN AND BLACKLAKE
SEWER SYSTEM MANAGEMENT PLAN (SSMP)
GOALS AND ORGANIZATION ELEMENTS**

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

F. MANAGER’S REPORT

Bruce Buel, General Manager, passed out a letter from Cal/Fire regarding transitioning coordination of the Annual Nipomo Area Greenwaste Chipping Event.

Monday, April 14, 2008, 9:00 a.m. Special Board Meeting concerning the Oakglen Specific Plan.

Monday, April 14, 2008, 1:00 p.m., there will be a Supplemental Water Committee meeting.

G. COMMITTEE REPORT

There was no committee report.

H. DIRECTORS’ REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn stated that South County Sanitary is requesting a phone call one week in advance for large items to be picked up during Spring Clean Up Days April 21-25, 2008.

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

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 NCSD (SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES).
2. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION GC§54956.9 MARIA VISTA VS. NCSD (CASE NO. CV 040877), MARIA VISTA VS. NCSD (CASE NO. CV 061079), AND MARIA VISTA VS. LINDA VISTA FARMS, NCSD 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. 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)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

President Winn adjourned to Closed Session at 11:19 a.m.

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

The Board came back into Open Session at 12:36 p.m.

There was no audience present.

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

Legal Counsel gave an update on the items listed above. There was no reportable action.

ADJOURN

President Winn adjourned the meeting at 12:37 p.m.

➤ THE NEXT REGULAR BOARD MEETING IS APRIL 30, 2008.**TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Waterline Intertie Project Engineering Report
- Merger of Town and Blacklake Water Systems
- Introduction of Ordinance Enabling 15 Year Franchise Agreement