

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 43 - Years of Service 1965 - 2008

MINUTES

MAY 14, 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.

00:00:00

A. CALL TO ORDER AND FLAG SALUTE

President Winn called the May 14, 2008 regular meeting of the Nipomo Community Services District to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all directors were present.

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 sent word that he could not attend this meeting.

C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

Battalion Chief Bill Fisher of Cal Fire presented an update of the activities on the Nipomo Mesa. A copy of the outline is available for viewing in the District office.

Station 20 had a total of 95 calls: 3 fires, 7 vehicle accidents, 57 medical calls and 35 other calls. Mesa Station 22 had a total of 66 calls: 10 fires, 8 vehicle accidents, 37 medical and 11 other calls.

He stated that in preparation for the summer, residents need to clear 100 feet of defensible space around structures and mow before 10 a.m.

He stated that there was a two-alarm fire at the Nipomo Recreation Center. When asked about the gas and electric, he stated that it had been turned off long before the fire began.

The Board thanked him for his report.

C-3) NCSO DISTRICT ENGINEER PETER SEVCIK

Update re: NCSO Engineering Activities

Peter Sevcik, District Engineer, reviewed the report as presented in the Board packet. Southland WWTF Upgrade, Water and Sewer Master Plan, Santa Maria Waterline Intertie Project, Waterline Relocation for County Drainage Project, Safety Program and other projects in process. He answered questions from the Board. The Board thanked him for the report.

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

Director Eby

Campfire concert to benefit the Dana Adobe – Saturday, May 18, 2008, 6-9 p.m.
\$35.00 for BBQ and concert or \$25.00 for just concert, or 2 tickets for \$65.00.

Director Harrison

Rotary Club Golf Tournament, Friday, May 16, 2008

Director Winn

SLO County Planning Commission will be considering the Inclusionary Housing Ordinance, Thursday, May 22, 2008, at 8:45 a.m. in the SLO County Supervisors' Chambers. The builder must build affordable houses as a part of his project, build someplace else at the same time, or pay an in-lieu fee instead of building them and those monies would have matching funds with Habitat for Humanity or such. At least 40 high-density projects would be targeted for Nipomo.

Bruce Buel, General Manager

Nipomo is now coordinating the Green Waste Chipping Event

Zone 1 – May 27 – June 6

Zone 2 – June 9 -20

Zone 3 – June 23 – July 3

Sign-up will be at NCSD, not Cal Fire

C-5) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

The following members of the public spoke

Christine Burtness, owner of a mixed-use project on Dana Street, asked the board about modifying the development plan to omit the landscaping meter to save water and the supplemental water fee. She stated that drought-tolerant plants would be installed and would be watered with the domestic meter until established.

The Board suggested Ms. Burtness submit a variance form to the District office.

Greg Nester, developer, asked why his project was not on the agenda for today.

Mr. Buel stated he responded to Mr. Nester and thought that the only way the District could help him will be when the Blacklake and Town systems merge.

Mr. Nester handed the Board a copy of a letter from the District and asked for some correspondence explaining the situation.

00:34:05

D. CONSENT AGENDA .

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 4/30/08 Meeting

D-3) APPROVE 2008-09 ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT #1

RESOLUTION NO. 2008-1079

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT GRANTING APPROVAL OF THE ANNUAL ENGINEER'S LEVY REPORT FOR THE STREET LANDSCAPE AND MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2008-2009

RESOLUTION NO. 2008-1080

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DECLARING ITS INTENTION TO LEVY ANNUAL ASSESSMENTS FOR THE STREET LANDSCAPE AND MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2008-2009

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D. CONSENT AGENDA (continued)

Items D-4 & D-5 were pulled from the Consent Agenda for separate consideration and vote.

Upon motion by Director Vierheilg and seconded by Director Eby, the Board unanimously approved Items D-1, D-2 and D-3. There was no public comment. Vote 5-0.

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

ITEM D-5

D-5) RETAIN SCIENCE DISCOVERY TO IMPLEMENT 2008-09 WATER CONSERVATION CLASSROOM EDUCATION PROGRAM

Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously agreed to continue this item to the next meeting. There was no public comment. Vote 5-0.

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

ITEM D-4

D-4) ADOPT FIRE SAFETY POLICY

Director Vierheilg asked if the proposed Safety Policy was tailored to NCSD. Director Trotter suggested a separate section for electrical fires. . Several Directors objected to a policy that fire extinguishers should not be used. Some amendments were suggested. Jon Seitz, District Legal Counsel, suggested an ad hoc committee to discuss the policy and to research other districts' policies. There was no public comment. Upon motion by Director Eby and seconded by Director Trotter, the Board unanimously agreed to continue this item and form an ad hoc committee consisting of Directors Vierheilg and Harrison to discuss the policy further. Vote 5-0.

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

The Board took a break at 10:04 a.m. and resumed the meeting at 10:17 a.m.

E. ADMINISTRATIVE ITEMS

01:04:42

E-1) ADOPT FINAL REPORT ESTABLISHING BLACKLAKE WATER FUND EQUITY BUY-IN, ADOPT RESOLUTION TENTATIVELY APPROVING BLACKLAKE WATER RATE INCREASE, AND INTRODUCE ORDINANCE MERGING BLACKLAKE AND TOWN WATER DIVISIONS

Bruce Buel, General Manager, recapped that the Board, on April 9, 2008, reviewed options for providing water supply to Blacklake and selected the option of the merger of the Blacklake Water Fund with the Town Water fund, based on the payment of an equity buy-in by Blacklake water customers based on a determination of the Town System Assets that provide service to Blacklake. The Board questioned the timing of the proposed hearings.

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- E-1) ADOPT FINAL REPORT ESTABLISHING BLACKLAKE WATER FUND EQUITY BUY-IN, ADOPT RESOLUTION TENTATIVELY APPROVING BLACKLAKE WATER RATE INCREASE, AND INTRODUCE ORDINANCE MERGING BLACKLAKE AND TOWN WATER DIVISIONS (continued)

A protest hearing will be set for July 23, 2008. Notices will be mailed to Blacklake property owners and residents at least 45 days prior to the hearing. Staff and some Board members will hold an informational forum in June at Blacklake to provide information and discuss the process.

The following members of the public spoke:

Bill Petrick, NCSD resident – stated that the concept presented today is different from the Director Trotter proposal. The Trotter proposal deals with the quality of service, whereas Mr. Buel's proposal is a buy-in concept. He stated that Mr. Buel has not done what the Board has asked.

Pat Eby, NCSD resident – stated that the charges for water at Blacklake have been wrong for years. She asked if protests can be hand-carried to the District. She asked about the process for renters and owners to file a protest. She asked how the votes will be counted, including BLMA landscaping meters by size, etc.

Jon Seitz, District Legal Counsel, answered that an equitable surcharge (the Trotter proposal) was created on a rational basis. The Town Division water system was built with a certain amount of capacity that could have been sold to other customer as they connected to the system. That capacity was not built to serve Blacklake. It has excess capacity, so it can supply Blacklake. That capacity could have been sold to others beside Blacklake and is a Town Division asset. Developers pay capacity charges to connect to the Town Division water system. The surcharge is for a rational basis for which the excess capacity is taken out of the general system and sold to Blacklake. Developers are charged approx \$2800 capacity charge for each connection. The Board used the Reed Report to determine the \$1600 rather than the rate of \$2800 charged to others. He also stated that the pressure at Blacklake cannot be depended on to provide water to the Town Division. They are different types of systems.

Bruce Buel, General Manager, answered Mr. Petrick's comment. A proposal was developed for the Town portions that benefit Blacklake. There are two separate funds and have been self-supporting. Merging the two funds raises equity issues. To merge Blacklake to Town with a buy-in charge is to attempt to make it equitable to Town and Blacklake Divisions.

Director Harrison stated that Mr. Buel has followed the Board's direction. The Town system is able to serve Blacklake because of the Town assets. The surcharge is trying to make it equitable.

Director Eby asked if the Proposition 218 Protest Hearing will only be for Blacklake. Mr. Seitz answered that because the Town rates are not being affected, it will only be for Blacklake.

Director Trotter stated that Blacklake is bringing some assets to the Town Division.

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E-1) ADOPT FINAL REPORT ESTABLISHING BLACKLAKE WATER FUND EQUITY BUY-IN, ADOPT RESOLUTION TENTATIVELY APPROVING BLACKLAKE WATER RATE INCREASE, AND INTRODUCE ORDINANCE MERGING BLACKLAKE AND TOWN WATER DIVISIONS (continued)

1.

The Board reviewed the "Blacklake Water Fund Merger with Town Water Fund Financial Plan and User Rates Final Report". Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously adopted the Final Report, as amended. There was no further comment on the report. Vote 4-1 with Director Vierheilg voting no.

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

2.

Upon motion by Director Trotter and seconded by Director Eby, the Board adopted a resolution, as amended, to increase the Blacklake water rates. There was no further public comment. Vote 4-1 with Director Vierheilg voting no.

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

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2008-1081
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
TENTATIVELY APPROVING A WATER RATE INCREASES
BLACKLAKE WATER DIVISION**

3.

Upon motion by Director Harrison, and seconded by Director Eby, the Board unanimously agreed to have Jon Seitz, District Legal Counsel, read the title only of the proposed ordinance merging the Town and Blacklake Divisions. There was no further public comment. Vote 5-0.

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

Jon Seitz, District Legal Counsel, explained the edits to the ordinance, then read the title of the proposed ordinance.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2008-
AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADDING CHAPTER 3.40 TO THE DISTRICT CODE MERGING
TOWN DIVISION AND BLACKLAKE WATER DIVISION**

4.

Upon motion by Director Eby and seconded by Director Harrison, the Board received the introduction version of the draft ordinance and set consideration for adoption at the August 13, 2008 Board Meeting if there is not a majority protest at the July 23, 2008 Board Meeting. Vote 4-1 with Director Vierheilg voting no.

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

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02:11:15

- E-2) ADOPT ORDINANCE AMENDING MAXIMUM TERM FOR SOLID WASTE FRANCHISE AGREEMENT FROM 10 YEARS TO 15 YEARS

Bruce Buel, General Manager, explained that South County Sanitary Service has requested the Nipomo Community Services District consider a fifteen-year extension of the franchise agreement. There was no public comment.

Upon motion by Director Vierheilg and seconded by Director Eby, the Board unanimously adopted Ordinance 2008-108, amending the Solid Waste Franchise Agreement. Vote 5-0.

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

**ORDINANCE 2008-108
AN ORDINANCE OF THE
NIPOMO COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS
AMENDING CHAPTER 7.20 OF TITLE 7 OF THE DISTRICT CODE TO
EXTEND FRANCHISE AGREEMENT TIME LIMITS**

02:15:00

- E-3) CONSIDER DIRECTOR VIERHEILIG REQUEST TO REVIEW STANDARD SPECIFICATIONS LOOPING REQUIREMENT

John Smith, principal from Tartaglia Engineering, and representing Jim David, discussed the letter requesting that the District accept the water main installed in the private street to serve Parcel Map CO 05-0113. He stated that the fire hydrant could be moved; but the owners in the far house would probably prefer that it not be moved.

Jim David, owner of the project, stated that communication about the fees could have been better. When the project was first started, there was no mention of a fire hydrant fee. It may cost up to \$6,000 to move the hydrant into the public street. If nothing can be done for his project, he would like to see that the mistake doesn't happen to others.

Bruce Buel, General Manager, stated that he tried to help avoid looping requirements. The developer can chose between several solutions, none of which are free. The District would prefer to have the hydrant near the main.

There was no action taken.

The Board took a break at 11:41 a.m. and resumed the meeting at 11:49 a.m.

The Board considered E-5 next

00:00:00
Recording
started over

- E-5) CONSIDER VILLAGE AT NIPOMO VARIANCE APPLICATION REGARDING OMISSION OF WATER VALVE CANS

Bruce Buel, General Manager, reviewed the request for a waiver of the District's requirement for the installation of valve boxes at the corporation stops for the 1½ -inch and 2-inch water services for Parcel Map CO 06-0037.

Peter Sevcik, District Engineer, answered questions from the Board regarding looping, valve boxes, shutting down water service in case of emergency, etc.

The following members of the public spoke:

Gary Elliston from Fluid Resource Management and Pat Stanhope, Project Manager explained that the detail was missed on the plans. Field inspections were made along the way. Mr. Elliston asked the Board to consider waiver of the requirements because of

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E-5) CONSIDER VILLAGE AT NIPOMO VARIANCE APPLICATION REGARDING OMISSION OF WATER VALVE CANS (continued)

the hardship it would cause to repair. The County requires a complete new paving job when the paving gets cut.

Upon motion by Director Harrison and seconded by Director Vierheilg, the Board unanimously rejected the request for a variance. Vote 5-0.

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

Bruce Buel, General Manager, asked if phasing of the project is possible. The Board agreed. Upon motion by Director Harrison and seconded by Director Eby, the Board approved a phasing concept to be brought to a future meeting. Vote 5-0.

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

01:11:00

F. MANAGER'S REPORT

Bruce Buel, General Manager, presented the Manager's Report as written.

Additional information includes:

- Regional Water Quality Control Board adopted a resolution initiating the amendment of the basin. The Board weakened the provisions for management activities, pumping, monitoring, and switching of leach fields. They changed those provisions from being "required" to "recommended".
- Dan Migliazzo has submitted his resignation. Staff has acknowledged and accepted it.
- Reconstruction of revenues and expenses of litigation – total estimate of revenues - \$1,042,000 to expenses - \$2,737,000
- CSDA annual meeting July 11, 2008, at Avila Beach Community Center

Mr. Buel answered questions from the Board.

01:22:00

G. COMMITTEE REPORT

1. April 29, 2008 Finance and Audit Committee Meeting
2. May 5, 2008 Southland WWTF Upgrade Project Committee Meeting

The Report is presented as submitted in the Board packet. There were no questions.

01:22:30

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Vierheilg

The newsletter, which was very good, was received after one event advertised had occurred.

Director Trotter

ACWA trip was very informative.

Director Winn

Asked if the wording on the agenda could change to silence cell phones rather than turning off cell phones.

Asked for a copy of Pat Eby's note.

Asked to agendize a discussion of Greg Nester's project.

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00:40:58

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 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. ANNUAL PERFORMANCE EVALUATION OF DISTRICT LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54957

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public present to comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:31 p.m.

00:42:40

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

The Board came back into Open Session at 1:39 p.m.

Jon Seitz, District Legal Counsel, announced that the Board heard updates on the items listed above. There was no reportable action.

00:43:15

E-4) CONSIDER REQUESTING AMENDMENT OF CSA 1A AGREEMENT TO ADD LATHROP MIXED-USE PROJECT AT HAZEL & DIVISION

Bruce Buel, General Manager, reviewed the application for sewer service for a mixed-use project on Hazel Lane. The property is outside District boundaries. When staff was researching the existing agreement with CSA 1, staff determined that while the parcel is included under the current Memorandum of Understanding (MOU) between the County and the District for CSA 1, only one dwelling unit equivalent is allocated to this parcel. Thus, if the zoning is changed for the parcels, the existing agreement needs to be amended to increase the number of dwelling units allocated to this parcel as well as increase the total number of dwelling unit equivalents provided sewer treatment within CSA 1.

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E-4) CONSIDER REQUESTING AMENDMENT OF CSA 1A AGREEMENT TO ADD LATHROP MIXED-USE PROJECT AT HAZEL & DIVISION

The Board discussed the situation. Upon motion by Director Eby and seconded by Director Harrison, the Board unanimously agreed to direct staff to send a letter to San Luis Obispo County for application to amend the MOU. There was no public comment.
Vote 5-0.

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

ADJOURN

President Winn adjourned the meeting at 2:27 p.m.

- **THE NEXT REGULAR BOARD MEETING IS MAY 28, 2008.
TENTATIVELY SCHEDULED ITEMS INCLUDE:**
 - SCSS Franchise Agreement
- **THE NEXT SPECIAL BOARD MEETING IS MAY 21, 2008.
TENTATIVELY SCHEDULED ITEMS INCLUDE:**
 - FY08-09 Budget Workshop