

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 43 - Years of Service 1965 - 2008*

## MINUTES

**JUNE 11, 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.

#### C. PRESENTATIONS AND PUBLIC COMMENT

##### C-1) COMMANDER BRIAN HASCALL OF SLO COUNTY SHERIFF'S OFFICE

Commander Brian Hascall gave an update of the Sheriff's activities on the Nipomo Mesa.

On Wednesday June 4, 2008, there was an attempted rape on Spruce Lane. Cmdr. Hascall warned not to allow stranger into house. The suspect was apprehended.

There was a second fire at the Nipomo Recreation Center.

There has been an increase in the theft of gasoline from vehicles. Cmdr. Hascall suggested using a locking gas cap.

The Board thanked Cmdr. Hascall for his report.

##### C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

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

Station 20 had a total of 89 calls: 6 fires, 13 vehicle accidents, 62 medical calls and 8 other calls. Mesa Station 22 had a total of 71 calls: 4 fires, 11 vehicle accidents, 42 medical and 14 other calls.

There are four large fires in California taking place at this time. Fifty homes have been lost to date. Light grass around the houses attributed to the loss of many of the homes and could possibly have been prevented by clearing 100 feet of space around the house. (Mr. Buel interjected that there are very informative "Defensible Space" CDs available on the back table.)

There have been educational events at the Nipomo schools (Fire Safe House).

The chipping program has been successful to date. Battalion Chief Fisher commended Skip Cleverly and Celeste Whitlow for jobs well done.

When asked about a weed abatement program, Battalion Chief Fisher stated that County Fire is in the process of drafting an ordinance.

The Board thanked Battalion Chief Fisher for his report.

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C-3) BRAD NEWTON OF SAIC  
PRESENTATION OF SPRING 2008 GROUNDWATER STORAGE VOLUME AND  
PRESENTATION RE: AB303 GRANT COMPETITION

Brad Newton of Science Applications International Corporation (SAIC) gave a slide presentation on the Spring groundwater measurements.

The Board asked questions. Dr. Newton answered:

2007-2008 Rainfall in this area – 10.6 " but the average is 16"

Consumptive use is less than pumpage because some of the water goes back into the groundwater.

The recharge lag time is unknown.

Dr. Newton presented information about the grant application. (Copies of the slides are available for viewing in the District office.) The District received 64 out of 100 points. Dr. Newton explained the evaluation of the District's application. The Board suggested that before the next time an application for a grant is made, staff needs to find out what the successful applicants did to earn a grant.

The Board thanked Dr. Newton for his presentation.

C-4) NCS D DISTRICT ENGINEER PETER SEVCIK

Peter Sevcik, District Engineer, presented information about engineer activities during May 2008. He reviewed the following:

- Southland Wastewater Treatment Facility
- Water and Sewer Master Plan Implementation
- Santa Maria water line Intertie Project
- Waterline relocation for County Drainage Project
- Safety Program
- Other
  - Preparing monthly report
  - Development review
  - Assisting Assistant GM & Utility Superintendent
  - Workshop on septic maintenance

The Board thanked Mr. Sevcik for his report.

C-5) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST  
Receive Announcements from Directors Items of District & Community Interest

Director Eby

LAFCo notice: June 19, 2008 Protest Hearing for annexation of acres around the airport. The next meeting, July 31<sup>st</sup>, was changed from July 17, 2008.

Director Winn

Two new County Supervisors were elected to Districts 1 & 3 on the June 2008 ballot. Final EIR for the Santa Margarita Ranch could set precedence. The County needs to know the Ranch development has a 20-year supply. The response deadline is June 22, 2008.

Draft final EIR for the Affordable Housing Ordinance Section called Inclusionary Housing. Is coming before the Board of Supervisors, July 7, 2008. It offers more density, with significant increases in water demand.

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- C-5) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST  
Receive Announcements from Directors Items of District & Community Interest

Director Winn (continued)

The EIR for water has changed to a Class 1 impact, which is the most severe. Members of the Board of Supervisors think that NCSD's two-tiered rate structure gives the impression that the District doesn't care about water conservation. The SLO County Planning Department would like periodic updates on the water project.

- C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

The following member of the public spoke:

Pat Eby, NCSD resident, asked if similar studies have been done. How would they correlate with the Nipomo area? Concerning the grant, Ms. Eby suggested grant writing may be more successful for joint projects. She also suggested looking at other projects that were successfully funded to see what was done.

Dr. Newton responded to Ms. Eby's question. He stated that studies done within the Santa Maria sub-basin and "Northern Cities" sub-basin of the Santa Maria groundwater basin were not performed to the extent that SAIC has been doing for the last few years. The Northern Cities approach to a monitoring program and the Mesa approach to the monitoring, through the capacity of the Technical Group of the Nipomo Mesa Management Area as part of the Stipulation, has been in process.

Jon Seitz, District Legal Counsel, stated that the last comprehensive report was completed by the DWR. San Luis Obispo County does its Resource Capacity Management Study review annually.

Mr. Buel stated that the City of Santa Maria is a participant in the Central Coast Water Authority, contracting with the Water Authority for State Water, and has a prescribed flow of water. The City uses this State Water allocation as drinking water.

Mr. Buel stated that the District was the only public agency on the Mesa (except for the County) to apply for the grant. The application was structured to be clear that the other purveyors were an integral part of the proposal. Letters of support from the other purveyors were included with the application. If the District had had a groundwater management program in place, the score would have been higher.

*The Board took a break at 10:28 a.m. and returned at 10:42 a.m.*

01:27:15

D. CONSENT AGENDA

- D-1) APPROVE WARRANTS

- D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 5/21/08 Special & 5/28/08 Regular Meetings

- D-3) ADOPT CELL PHONE USE POLICY

**RESOLUTION NO. 2008-1086  
A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING A CELL PHONE USE POLICY**

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D. CONSENT AGENDA (CONTINUED)

- D-5) RATIFY TRANSMITTAL OF LETTER OF SUPPORT FOR SLO COUNTY FEDERAL GANG PREVENTION GRANT APPLICATION
- D-6) OPPOSE ADOPTION OF AB983 AND AUTHORIZE COMMUNICATIONS REGARDING OPPOSITION
- D-7) AWARD QUOTE FOR SOUTHLAND POND 3 SLUDGE REMOVAL

Director Winn asked to have Item D-4 pulled for separate consideration.

Bruce Buel, General Manager, reviewed the remaining items on the Consent Agenda. Director Harrison corrected the statement in Item E-1 of the May 28, 2008 Minutes, as follows: "With a long, dead-end line, a fire engine can pull a draft and collapse the tank of a water heater in a house."

Upon motion by Director Eby and seconded by Director Harrison, the Board unanimously approved Items D-1, D-2, D-3, D-5, D-6, and D-7 of the Consent Agenda, as amended. Vote 5-0.

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

Item D-4

D-4) ADOPT FIRE SAFETY POLICY

Director Winn had asked to have this item pulled for separate consideration. He asked about Section IX of the Fire Prevention Policy.

Bruce Buel, General Manager, described the edit suggested by legal counsel to Section IV B. There was a small edit Section X c.

The Board discussed the possibility of the employee trying to fight a fire rather than allowing a structure to burn while waiting for the Fire Department to arrive. Some fire extinguisher companies provide training in the use of extinguishers. Other edits were suggested by the Board.

Jon Seitz, District Legal Counsel, stated that within the context of the legal system there are no criteria for good or bad judgment.

Bruce Buel, General Manager, explained that SDRMA has a fire prevention course on line. The employees will be taking the course before the next safety meeting.

There was no public comment.

Upon motion by Director Vierheilig and seconded by Director Harrison, the Board adopted Resolution 2008-1087, approving the Fire Prevention Policy, as amended. Vote 4-1 with Director Winn voting no.

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

**RESOLUTION NO. 2008-1087  
A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING A FIRE PREVENTION POLICY**

## E. ADMINISTRATIVE ITEMS

01:44:13

## E-1) CONSIDER STATUS OF INTENT-TO-SERVE LETTER PROCESSING SUSPENSION AND EMERGENCY WATER SHORTAGE REGULATIONS IN LIGHT OF SPRING 2008 STORAGE CALCULATIONS

Bruce Buel, General Manager, reviewed the Board letter in the packet.

The Board discussed the expected timeline of the Supplemental Water Project, including the EIR and the rights-of-way. A formal agreement with Santa Maria is anticipated in August 2009.

The following members of the public spoke:

Bill Kengel, builder/developer of Teddy Bear Homes, stated that he has an affordable-housing, apartment complex proposed for West Tefft Street. He asked the Board to consider allowing his project to go forward.

Terry Orton, Westland Engineering, requested that the Board allow the resolution to sunset and once again allow Intent-to-Serve letters to be issued. He stated that the information obtained today in Dr. Newton's presentation was not as severe as some had thought it would be.

Greg Nester, Nipomo resident/builder, stated that the regulation in the distributions of water should be at the end of a project and not the beginning. Entitlement processes may be stopped. He requested that there not be any more gaps in land development.

Randy Ray, architect and representative for Mr. Kengel's project, stated that water should be set aside for affordable housing. He asked that the Board consider this project.

Staff responded to public comment.

Bruce Buel, General Manager, stated that the matter is a policy issue and not judged on whether the project is low-income housing or not.

Mr. Seitz agreed with Mr. Buel. An Intent-to-Serve letter has conditions that must be met by the developer and not NCSD. The District has an existing Intent-to-Serve letter allocation policy and issues allocation pursuant to a stringent policy.

When Director Eby asked if NCSD could put a condition of delivery of supplemental water, Mr. Seitz answered that the County may not acknowledge a conditioned Intent-to-Serve letter.

When asked if Santa Maria has the ability to reduce the supply to NCSD if drought conditions continue, Mr. Buel stated that Santa Maria can only reduce it the same ratio that it reduced to its own customers.

Director Eby suggested extending the resolution to March 2009, when the EIR has been completed and some of the challenges are out of the way. He also asked if anyone is going to join the District in development of the Emergency Water Shortage Regulations. The District, as 30% users of water on the Mesa, is not going to significantly affect the Mesa and should delay passing regulations until others in the Technical Group join in creating them.

Director Trotter asked to consider the amount of water Santa Maria and Woodlands pump. He also stated that the District should postpone giving out new water.

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E-1) CONSIDER STATUS OF INTENT-TO-SERVE LETTER PROCESSING SUSPENSION AND EMERGENCY WATER SHORTAGE REGULATIONS IN LIGHT OF SPRING 2008 STORAGE CALCULATIONS (CONTINUED)

Director Harrison stated that the water table is cycling in 10-12 year cycles and suggested allowing the Intent-to-Serve letter suspension resolution to expire.

Director Vierheilig stated that the Technical Group needs to define trigger points.

Upon motion by Director Harrison and seconded by Director Vierheilig, the Board agreed to request the NMMA Technical Group to expedite development of its trigger proposal to the Court, to allow Resolution 2008-1070 to expire, and continue to hold on the Emergency Water Shortage Regulations. Vote 3-2, with Directors Trotter and Eby voting no.

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

02:23:51

E-2) DESCRIBE OPTIONS IF BLACKLAKE/TOWN MERGER FAILS AND DISCUSS PENDING PROPOSITION 218 PROTEST PROCEEDING

Bruce Buel, General Manager, reviewed the information provided in the Board letter. The District received correspondence June 9, 2008, from Mr. Ernest Conant, Special Counsel for Black Lake Management Association, questioning the District's procedure in presenting the proposed rate increase and the Buy-In Charge. Mr. Conant requested that the Board cancel the July 23, 2008 hearing and majority protest process.

Director Trotter stated that \$250,000 will not build an adequate stand-alone water system and the residents most likely do not want a stand-alone system.

Jon Seitz, District Legal Counsel, stated that though he is an expert in Proposition 218, he consulted McDonough, Holland and Allen for a second opinion. It is agreed that the District is proceeding properly.

Director Eby asked if the choice listed in the Board letter requires a 218 protest proceeding:

Design full upgrades to the Blacklake Water System to achieve State Water Code compliance and present a rate adjustment to Blacklake customers and property owners pursuant to the provisions of Section 6 of Article XIII D of the California Constitution."

Mr. Seitz replied yes.

Director Eby asked when the District installed the second inter-tie. {Answer: Summer 2006, and the first inter-tie was installed in various stages between 1998 and 2000.}

The following members of the public spoke:

Pat Eby, NCSD resident, stated that four members of the Board attended the meeting at the clubhouse. The majority of the attendees made it known that they did not want an independent system. There are other options. She reported that she has about 100 protests to date. There are about 30 volunteers to canvass the neighborhood. She will get further information about how the Association accounts will be counted. She also stated that the District should follow the policies within Resolution 96-592, which include bringing information to the BLMA to allow the Association to make alternate proposals.

Director Eby stated that he did not attend because he was not invited and didn't know about the meeting until after it was over.

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E-2) DESCRIBE OPTIONS IF BLACKLAKE/TOWN MERGER FAILS AND DISCUSS PENDING PROPOSITION 218 PROTEST PROCEEDING (continued)

Nancy Fleming, BLMA President, requested that the Board withdraw the Proposition 218 protest proceeding and to acknowledge Resolution 96-592. She stated she would like a chance to negotiate. Then we can concentrate on water conservation.

Bill Nelson, NCSD resident, stated that merging the two systems is the only logical solution. It is a win-win situation for Town and Blacklake. The amount of money for the "Buy-In Charge" seems to be the argument. The NCSD and the Blacklake community need to work together for a common goal.

Jim Pelkey, NCSD Blacklake resident and Town customer, stated that there seems to be a problem with the Blacklake being able to meet Cal Fire standards. He would like to see NCSD and Blacklake work together for an acceptable solution.

Dan Hall, stated that there are multiple sub-associations and multiple meters. He asked about how the sub-association meters would be counted. {Answer: one vote per parcel.}

The Board discussed the options for regarding the pending protest hearing.

Jon Seitz, District Legal Counsel stated that Resolution 96-592 seemed to go by the wayside with the passing of Jack Stoddard. Regarding the protest hearing, the Board is looking at the best deal for both systems. The District hired The Reed Group to have an independent consultant to obtain an equitable solution. Mr. Buel stated that the Blacklake community has been well represented. Director Winn stated that several items in the resolution have not been followed. Written notices have been sent to Blacklake residents. The group must meet to make the resolution work.

During the discussion Mr. Buel state that he had no alternative but to rebuild the Blacklake pumping plant with the limited resources in Blacklake reserves. Director Trotter stated that Blacklake homeowners do not want that and Mr. Buel should not do anything concerning the matter and wait for further Board action.

There was no action taken.

*The Board went into Closed Session after this item.*

03:08:52

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel announced the following to be discussed in 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)

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J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:24 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

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

03:28:10

E-6) PUBLIC HEARING – REVIEW FY2008-09 BUDGET

Bruce Buel reviewed the process to adopt the District's 2008-2009 Fiscal Year budget. He described a few edits and recommended \$15,000 for development of a strategic plan rather than \$5,000.00 listed on page 70.

Lisa Bognuda, Assistant General Manager, explained a change in the number of employees noted on page 1. Some Board discussion ensued. The Board agreed that staff could bring a resolution to the Consent Agenda concerning adding the title of Finance Officer to the Assistant General Manager's title.

President Winn opened the Public Hearing.

There was no public present.

The Public Hearing was closed.

Upon motion by Director Trotter and seconded by Director Harrison, the Board unanimously agreed to change the funding for the Strategic Plan on page 70 to \$15,000. Vote 5-0.

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

Upon motion by Director Harrison and seconded by Director Vierheilig, the Board unanimously agreed to hold a public hearing June 25, 2008, to adopt the budget. Vote 5-0.

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

03:43:41

F. MANAGER'S REPORT

Bruce Buel, General Manager, presented the Manager's Report, as written. Director Harrison asked about money collected and spent for Blacklake maintenance. Ms. Bognuda will send the information to Mr. Harrison. Ms. Bognuda was also asked about the salary range change for the promotions in Maintenance.

03:52:20

G. COMMITTEE REPORT

There will be a Supplemental Water Project Design and Construction Committee meeting at 1:00 p.m. Monday, June 16, 2008.



03:53:16

## H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Vierheilig asked about water rates.

Mr. Buel answered that he met with Mr. Reed about water rates in light of the supplemental water project.

Director Harrison asked about the forum at Blacklake. Mr. Buel said it would be at 2:00 p.m. June 18, 2008, in the clubhouse at Blacklake.

Director Winn presented information on the following:

The Board of Supervisors discussed water conservation measures and Title 8 (at point of sale) and Title 19 (new construction and remodels). Celeste Whitlow, Water Conservation Specialist, did an excellent job speaking to the Board of Supervisors.

The original recommendation was a \$13,000 in-lieu fee. In addition, they plan to charge \$750 per toilet to be paid to NCSD; in turn, NCSD is to spend it on conservation efforts on the Mesa-- fees within the District to be spent in the District and fees from outside to be spent outside.

Supervisor Achadjian liked the idea of retrofitting schools and the parks but possibly crediting them for their in-lieu fee. The Board will bring the subject back in September 2008.

Director Harrison stated that he attended the septic workshop. He said it was well-attended and well-presented.

ADJOURN

President Winn adjourned the meeting at 2:12 p.m.

➤ **THE NEXT REGULAR BOARD MEETING IS JUNE 25, 2008.**

**TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Select Waterline Intertie Project Design Team
- Review FY08-09 Budget
- Project Development Guidelines