

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 43 - Years of Service 1965 - 2008*

## MINUTES

**JULY 23, 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, **FINANCE DIRECTOR/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:

#### B. ROLL CALL

At Roll Call, all directors were present.

#### C. PRESENTATIONS AND PUBLIC COMMENT

##### C-1) NCSD UTILITY SUPERINTENDENT TINA GRIETENS

Update re: Utility Department Activities

Tina Grietens, Utility Superintendent, gave an update of the activities within the Utility Division, which includes the following outlined in the Board packet:

- Southland Wastewater Plant
- Southland Utility Yard
- Collection System
- Wells
- Distribution System Maintenance
- Waterline Relocation Project
- Personnel
- Compliance
- Other

Peter Sevcik, District Engineer, answered questions from the Board concerning the sinkhole at Joshua and Orchard. He stated that the fill above the pipe was not compacted properly. TLC Underground repaired the hole on behalf of NCSD.

The Board thanked Ms. Grietens and Mr. Sevcik for the information.

##### C-2) NCSD WATER CONSERVATION COORDINATOR CELESTE WHITLOW

Update re: Water Conservation Activities and Chipping Event

Celeste Whitlow, Water Conservation Specialist, gave an update of the Conservation programs, which include the following outlined in the Board packet:

- Community Events and Educational Workshops
- Newsletters, Mailings, Advertising
- WC Program Implementation
- Office Landscape
- California Urban Water Conservation Council

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C-2) NCSD WATER CONSERVATION COORDINATOR CELESTE WHITLOW (CONTINUED)

Ms. Whitlow stated that the Chipping Event was completed. There were 157.5 tons of materials from 164 residences chipped. The California Conservation Corps provided the crew and were very cooperative and supportive.

Ms. Whitlow answered questions from the Board. The Board thanked Mrs. Whitlow for the information.

C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST  
Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig

SCAC will meet July 28 concerning the County Parks. They will be presenting results of the meeting regarding a community center and recreation center.

Director Eby

Dana Adobe is starting a new concert series. The first will be Sunday, Sept. 21, 2008, with reception at 3:00 p.m. and concert at 4:30 p.m. presenting pianist Jim Barnet. Tickets are \$18.50.

Director Harrison

The Dana Adobe and County Parks are having a ribbon cutting ceremony at the Dana Adobe July 27, 2008 at 1:00 p.m. for the property the County purchased.

Director Winn

Planning Commission will meet July 24, 2008, at 8:45 a.m. to discuss the Inclusionary Housing Ordinance.

Chamber of Commerce meeting Wednesday, July 30, 2008. Bruce Buel will be one of the speakers.

Coastal Commission will be meeting in Oceanside, August 6, 7, and 8, 2008, discussing a desalination plant. Supervisor Achadjian asked if someone from this Board would attend the Coastal Commission meeting when it will be in Cambria.

Director Eby

At the Board of Supervisors last week, the Perrett detachment was discussed. Director Eby spoke at the meeting and suggested to the Board that an environmental determination is required by CEQA. County Counsel opined that this project was exempt from CEQA by case law and that the detachment statutes are superior to CEQA.

Director Winn

He stated that the hearing for the Perrett detachment will be August 26, 2008.

C-4) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

00:31:05

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 7/9/08 Regular Meeting

D-3) ADOPT HAZARD COMMUNICATIONS POLICY

**RESOLUTION NO. 2008-1097  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING A HAZARD COMMUNICATION POLICY**

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D. CONSENT AGENDA

- D-4) ACKNOWLEDGE EXECUTION OF HAMNER-JEWELL AGREEMENT FOR PROPERTY NEGOTIATION SERVICES
- D-5) ACKNOWLEDGE EXECUTION OF REEDER, GILMAN & MILLION AGREEMENT FOR APPRAISAL SERVICES
- D-6) APPROVE TASK ORDER WITH GARING AND TAYLOR FOR PEER REVIEW PANEL SERVICES
- D-7) APPROVE TASK ORDER AGREEMENT WITH PAUL KARP FOR PEER REVIEW PANEL SERVICES
- D-8) ACCEPT SECOND QUARTER INVESTMENT REPORT

Bruce Buel, General Manager, notified the Board of minor corrections in Items D-3 and D-7. Upon motion by Director Vierheilig and seconded by Director Eby, the Board unanimously approved the Consent Agenda, as amended. There was no public comment. Vote 5-0.

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

E. ADMINISTRATIVE ITEMS

00:34:04

- E-1) PROTEST HEARING – RECEIVE BLACKLAKE WATER RATE ADJUSTMENT PROTESTS; DIRECT SECRETARY TO TABULATE PROTESTS; PROVIDE POLICY GUIDANCE AND CONTINUE ITEM TO 8/13/08 BOARD

Bruce Buel, General Manager, reviewed the summary of the protests received as of close-of-business July 22, 2008. NCSD had received 413 protests from the 586 eligible parcels in Blacklake. He stated that there were sufficient protests to make it successful and staff believes that it is not worth the money or the time to be verified by the Registrar of Voters.

Mr. Buel reviewed three concepts for a merger of the Town Division with the Blacklake Division.

- 1) The Board could possibly generate a new merger proposal. Mr. Bob Reed of The Reed Group has presented a proposal regarding the fiscal impacts of a merger at different buy-in levels.
- 2) Director Vierheilig presented a different buy-in charge proposal idea (included in the Board packet).
- 3) Another concept could be to solicit proposals from other rate consultants to evaluate the buy-in charge.

Jon Seitz, District Legal Counsel, announced that the Protest Hearing was formally open. At the close of the Public Hearing, no more protests will be accepted.

The following members of the public spoke:

Bill Petrick, NCSD customer, stated that a Blacklake Town Hall meeting was held last week to inform the Blacklake community of the status of the Prop 218 protest. The group appreciated Director Vierheilig's talk where he described a plan which was based on bringing the Water Replacement Fund up to a specified level to accommodate replacement costs rather than depreciation costs. The Blacklake Ad Hoc Committee agreed that Director Vierheilig's proposal seems reasonable. Mr. Petrick urged the NCSD Board to work with the BLMA Oversight Committee. If Director Vierheilig's proposal is accepted by the BMA Board (without any upward changes), the Ad Hoc Committee will not lead another Prop 218 protest.

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E-1) PROTEST HEARING – RECEIVE BLACKLAKE WATER RATE ADJUSTMENT PROTESTS; DIRECT SECRETARY TO TABULATE PROTESTS; PROVIDE POLICY GUIDANCE AND CONTINUE ITEM TO 8/13/08 BOARD (CONTINUED)

Pat Eby, NCSD customer, handed a spreadsheet to the Board (available for viewing in the District Office). She reviewed the spreadsheet titled "NCSD Total Well Production and Blacklake's Contribution to Total Production". She asked the Board to credit Blacklake for the excess water from the Sundale Well.

President Winn asked for last call for protests. There were no other protests.

The Protest Hearing was closed.

President Winn thanked Mrs. Eby for her proposal concept.

The Board discussed the situation.

Director Vierheilig stated that the Sundale Well has been a high maintenance item.

Director Trotter pointed out that it is not financially possible to consider Blacklake as a stand-alone system and the Blacklake community does not want a stand-alone. The equipment at Blacklake is incapable of supplying Blacklake with water during peak hours. He also stated that when the idea of hiring Mr. Reed for a study was considered, he asked Mr. Reed what approach would be taken in the study. Mr. Reed said the approach would be similar to the last study unless he was given different directions. Director Trotter said he was troubled by that answer.

Director Winn stated that the Blacklake system is currently a stand-alone system but is receiving some water from the Town system.

Director Eby asked if the District would be certifying the protests and if so what then.

Upon motion by Director Harrison and seconded by Director Eby, the Board unanimously agreed to certify the protests, to find that there was a majority protest, to stipulate that it is unnecessary to go out for signature verification, and terminate the proceedings. Vote 5-0.

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

Director Eby stated that a large population of the Blacklake community does not trust that the solution presented is fair and equitable. If there were a solution presented that showed that Town Division was not subsidizing Blacklake Division and Blacklake was not subsidizing the Town Division, the people of Blacklake would probably accept it as fair.

Director Winn asked legal counsel if the District could use the "Trotter approach" and get a different number.

Jon Seitz, District Legal Counsel, answered that a rate study cannot be ordered with a predicted conclusion.

The Board continued to discuss the desire to reach revenue neutrality. The scope of work for a method to reach a solution needs to be agreed upon by the BLMA and then the numbers could be found.

The following members of the public spoke:

Bill Petrick, NCSD customer, stated that the Ad Hoc Committee is not demonizing Mr. Reed's study. The method by which Mr. Reed reached conclusions was not discussed with the Blacklake community. If everyone could agree to the method, the number that emerges would be acceptable.

Pat Eby, NCSD customer, stated that there are talented residents within Blacklake who could get together with staff to form an acceptable method.

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E-1) PROTEST HEARING – RECEIVE BLACKLAKE WATER RATE ADJUSTMENT PROTESTS; DIRECT SECRETARY TO TABULATE PROTESTS; PROVIDE POLICY GUIDANCE AND CONTINUE ITEM TO 8/13/08 BOARD (CONTINUED)

Sharon Petrick, NCS D customer, stated that there was no negotiation with the Blacklake community. She asked that the Board not use more consultants. Take the "Vierheilg II" proposal and work with the oversight committee.

Ian Wallace, NCS D customer, stated that consultants tend to be biased toward the client. He would trust an in-house analysis.

Bob Stanger, NCS D customer, stated that he supports an in-house study that involves the Blacklake community.

Bruce Buel, General Manager, suggested hiring a rate consultant.

Director Trotter made a motion to have staff do an in-house study. After some discussion with Mr. Buel and the Board, Director Trotter withdrew his motion.

Director Vierheilg suggested the Finance Audit Committee meet with the selected members of the Blacklake community to define the scope of work for a concept on how to come up with a revenue neutral outcome.

Upon motion by Director Vierheilg and seconded by Director Harrison, the Board unanimously agreed to have the Finance and Audit Committee meet in a formally agendized meeting with the appointees from the Blacklake Village Master Association Board and others from the public who wish to give input to develop a scope of work to be submitted to the full Board, preferably by August 13, 2008. Vote 5-0.

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

*The Board took a break at 11:10 a.m. and returned at 11:25 a.m.*

02:10:09

E-2) SCOPING HEARING – RECEIVE FEEDBACK ON SCOPE FOR WATERLINE INTERTIE PROJECT

Bruce Buel, General Manager, explained that this is a Scoping Hearing to receive feedback on the scope for the Waterline Intertie Project EIR.

Doug Wood, principal of the Douglas Wood and Associates and consultant to prepare the Environmental Impact Report (EIR) for the waterline project. Comments will be noted today and will be integrated into the draft EIR at the time it is circulated. The public will be fully informed on the project. After comments are made on the draft EIR, the Board will make a decision on certifying the EIR and then make a decision on the project. The process will be as follows:

1. With today's input, the draft EIR will be prepared.
2. Oct. 10, 2008, after District review, a draft document will be ready for public circulation.
3. A Notice of Preparation has been circulated for 30 days. The Initial Study was attached to the Notice.
4. Anyone has the right to file, in writing, comments that he or she feels should be discussed in the EIR. The review period extends through July 28, 2008.
5. The draft EIR will be circulated to the public and involved agencies for a 45-day review period.
6. Comments can be made on the draft EIR and the proposed project.
7. The Board can then make an informed decision on the project.

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E-2) SCOPING HEARING – RECEIVE FEEDBACK ON SCOPE FOR WATERLINE INTERTIE PROJECT (CONTINUED)

Mike Nunley, Boyle's Project Engineer for the design of the Waterline Intertie Project, briefly reviewed the project. The report presented to the Board in May 2008 named the project as a three-phase project. Phase I will deliver 1,500-2,000 acre-feet of water per year (AFY). Phase II will deliver 2,000 to 3,000 AFY, depending on what Santa Maria will allow the District to pull from their system. Phase III is a conceptual idea to deliver up to 6,200 AFY.

Doug Wood stated that the EIR includes the analysis of the impact of all three phases.

The following members of the public spoke:

Bill Petrick, NCSD customer, read a portion of a written statement. Mrs. Petrick read the remainder. He listed eleven questions for consideration, if a written agreement with Santa Maria exists that defines the source of supplemental water and the conditions under which that water is made available to NCSD. If the written agreement does not exist, then all the design work, draft EIRs, etc. is premature and should be suspended until an agreement is in place that meets the Stipulation Agreement and the LAFCO resolution of future annexations. A copy of the statement is available for viewing in the District office.

Sharon Petrick, NCSD customer, read the remaining questions that Mr. Petrick ran out of time for reading.

Jennifer Jozwiak, Vice Chair of Surf Riders SLO Bay Chapter, asked if the Board had thought about reclamation. The Pismo area is moving toward a plan for tertiary treatment. She encouraged the Board not to rely on Santa Maria water and to work with others.

Arthur Tognazzini, Santa Maria Valley Conservation District, pointed out a section on page V8 of the Initial Study. He stated that when the report says water, it needs to say "blended flows" because it will be a blend of State Water and Santa Maria groundwater.

Board discussion ensued. Director Trotter stated that the agreement Mr. Petrick mentioned is a "Memorandum of Understanding" with the City of Santa Maria and is available on the website. The agreement does not identify the portions of State Water or groundwater. If cuts backs are necessary, both Santa Maria water users and Nipomo will have the same cutback.

Jon Seitz, District Legal Counsel, explained that the final agreement with the City of Santa Maria will not be entered into until after the project is defined and CEQA certification has occurred.

Director Vierheilig stated that the stipulation defines supplemental water.

Director Eby asked how the comments received will be used.

As an example of how the issues will be treated in the EIR, Mr. Wood used the question posed - why not pump the water directly out of Nipomo since we are all one big basin. Mr. Wood stated that alternatives would be examined with the impacts of each noted. Responses to the comments received for this meeting (NOP or Scoping Meeting) will be manifested in the EIR document. They will be included as an appendix to the document. After the draft of the EIR is distributed and additional correspondence is received, the District will be obligated to respond in writing to comments received on the Draft EIR.

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The Board chose to consider the Closed Session next.

02:53:09

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following items to be discussed in 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 VS. NCSO ET AL. (CASE NO. ND07-10362RR IN UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT, NORTHERN DIVISION)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:09 p.m.

005:53:50

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

The Board came back into Open Session at 1:15 p.m.

Director Trotter left the meeting at 1:14 p.m.

Jon Seitz, District Legal Counsel, announced the following summary of the Closed Session. The Board heard an update on the items above. In the groundwater adjudication case - upon motion by Director Vierheilg and seconded by Director Eby, the Board unanimously agreed (subject to Mr. James Markman's signature) to authorize execution of an agreement of a conflict waiver letter from Clifford and Brown to continue their representation of the District as well as the farm group in the groundwater adjudication. Vote 5-0.

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

The Board heard an update on the on-going litigation with Maria Vista and had no reportable action.

02:56:15

E-3) REVIEW CURRENT DISTRICT CODE SECTION REGARDING EMERGENCY WATER SHORTAGE STAGES

Bruce Buel, General Manager, explained that the Board had agreed to review the emergency water shortage code section to determine if they should be suspended until new triggers are developed. Included in the packet is a printout of recent NCSO water usage which shows that the current production is greater that the trigger points set forth in the existing code.

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E-3) REVIEW CURRENT DISTRICT CODE SECTION REGARDING EMERGENCY WATER SHORTAGE STAGES (CONTINUED)

The Board discussed the fact that the District's pumping capacity has changed since the adoption of the ordinance and that pumping capacity is not groundwater resource capacity.

Upon motion by Director Vierheilg and seconded by Director Eby, the Board unanimously adopted Resolution 2008-1098, suspending various sections of Chapter 3.24 of the District Code. There was no public comment. Vote 5-0.

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

03:50:00

**ADJOURN TO NCSD PUBLIC FACILITIES CORPORATION**

President Winn adjourned the regular meeting of the Nipomo Community Services District at 1:30 p.m. and opened Public Facilities Corporation.

**ROLL CALL**

At Roll Call, the following members of the Corporation were present:  
Members Eby, Vierheilg, Harrison and Winn

**ADJOURN TO NCSD PUBLIC FACILITIES CORPORATION (CONTINUED)**

**Public Comment on Agenda Items**

A. NCSD PUBLIC FACILITIES CORPORATION ANNUAL MEETING  
Approve 2007 Minutes and Provide Policy Guidance re 2009 Financings

Bruce Buel, General Manager, explained the difference of using NCSD's finance corporation or CSDA's finance corporation. He mentioned several firms that provide the services needed.

Director Vierheilg asked that the District ask the Finance Advisor about the small outstanding debts outside of the COPs. Can we get an opinion whether our bond ratings would be firmer if those debts were retired prior to looking for new money or just leave as is?

The Board directed staff to get more information on CSDA Finance Corporation financing.

Upon motion by Director Eby and seconded by Director Harrison, the Board approved the Minutes of the July 25, 2007 Nipomo Community Services District Public Facilities Corporation. There was no public comment. Vote 4-0 with Director Trotter absent.

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

**ADJOURN TO NCSD – REGULAR MEETING**

President Winn adjourned the Public Facilities Corporation at 1:49 p.m. and opened the regular meeting of the Nipomo Community Services District.



03:25:02

## F. MANAGER'S REPORT

Bruce Buel, General Manager, added further information to the items presented in the Board letter.

- Mr. Buel will be speaking at the Chamber of Commerce meeting Wednesday, July 30, 2008, at 11:45 a.m.
- South County Sanitary Service will be having its Clean-Up Days September 22-26.
- The Defensible Space workshop was canceled due to lack of sign-ups.
- There are some problems with the County and the two waterline relocation projects. The Superintendent of Road requires an encroachment permit. Peter Sevcik, District Engineer, stated that the County is requiring the removal of AC pipe. Director Winn suggested that the District communicate with Public Works.

## G. COMMITTEE REPORT

President Winn reviewed the list presented in the Board letter. There was no public comment.

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

Director Eby

- He stated that he might like to revisit the Intent-to-Serve letter policy.
- He found on the County website: Candidates for the Los Osos CSD are Marshall Ochylski, David Duggan, Maria Kelly and Burke Vanderhoef.

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

Director Vierheilig

- He stated that he will not be at the August 27, 2008 meeting.

Director Winn

- He stated that the Planning Commission will be meeting July 24, 2008. At 8:45 a.m. the Commission will consider the Santa Margarita Ranch Ag cluster. The focus will be on water issues. Then at 1:30 p.m. the Commission will consider the EIR for Affordable Housing in support of Inclusionary Housing.
- He would like to consider the Sundale Well usage issue. The well was connected to Blacklake's water system, via intertie, to meet Title 22 and Blacklake's peaking demands.
- He asked Mr. Seitz if NCSD can have code enforcement powers. Mr. Seitz replied that the District has powers only for water, sewer, solid waste and some lighting.
- He stated that his daughter will be a C-1 in the California Conservation Corp.

ADJOURN

President Winn adjourned the meeting at 2:29 p.m.

➤ **THE NEXT REGULAR BOARD MEETING IS AUGUST 13, 2008.****TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Blacklake Sewer Fund Financial Report
- Supplemental Water Capacity Charges