

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 43 - Years of Service 1965 - 2008

MINUTES

SEPTEMBER 24, 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/ASST GM**
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.

00:00:30

B. ROLL CALL

At Roll Call, all directors were present.

00:00:45

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) NCSO UTILITY SUPERINTENDENT TINA GRIETENS

Update re: Utility Department Operations

Tina Grietens, NCSO Utility Superintendent

Ms. Grietens gave an update of the activities within the Utility Division, which includes the following outlined in the Board packet.

- Southland Wastewater Plant – keeping in compliance, grinder pumps maintenance
- Southland Utility Yard – yard clean-up, remodel of lab area
- Maintenance – preventative maintenance program,
- Collection System – cleaning lift stations , backup alarm
- Wells – repairs to Sundale Well
- Distribution System – waterline on Tefft and Thompson, repair on Camino Caballo, fire hydrants painting
- Personnel –training, certification
- Compliance reports
- Participated in discussion regarding Cypress Ridge, inspection of Tr 1747, SCADA system upgrade

The Board discussed the following with Ms. Grietens:

Sundale Well status and "in-house" general maintenance on equipment.

Water is being stolen from some of the fire hydrants. Prosecution needs to occur.

When a generator is purchased for Sundale and Eureka, it will be mobile.

The Board thanked Ms. Grietens for the report.

The packet is available for viewing in the District office or on the website at NCSO.CA.GOV:

C-2) WATER CONSERVATION COORDINATOR CELESTE WHITLOW
 Update re: Water Conservation Activities

Celeste Whitlow, Water Conservation Specialist, stated she and President Winn had attended the Board of Supervisors meeting, Tuesday, September 23rd. She gave an update of the conservation activities, which include the following outlined in the Board packet:

- Community Events and Educational Workshops - SLO County Creek Clean-Up Day
- Newsletters, Mailings, Advertising
- Water Conservation Program Implementation
- Office Landscape
- California Urban Water Conservation Council
- Reviewing material for Water Conservation Program elements
- Collected information on reported creek violations and illegal dumping

Jill Falcone informed Ms. Whitlow when garbage is dumped in the creek, it needs to be reported right away to be removed before the rain starts.

The Board discussed the need to get heard in Sacramento. Mr. Sam Blakesley is willing to help get a voice at the table.

Director Trotter stated there was an article about Ms. Whitlow's activities in the Time Press Recorder and asked if it would be in the Tribune.

The Board thanked Ms. Whitlow for the report.

C-3) MIKE NUNLEY OF BOYLE ENGINEERING
 Update re: Waterline Intertie Project Final Design

Mike Nunley, Project Engineer for the design phase of the Waterline Intertie Project, reviewed the progress to date. He distributed a new Design Schedule dated 9/22/08. The planned milestones are being reached. The Project Team completed the following:

- Participation in Supplemental Water Committee meeting
- Ground control and aerial photography of the project corridor
- Site visits to wells and proposed tank and pump station sites
- Field meeting with California Department of Fish and Game
- Concept Design Report

The design budget is at about 5 percent.

The Board thanked Mr. Nunley for the progress report.

C-4) DISTRICT COUNSEL JON SEITZ
 Presentation re California Supreme Court Decision on Assessment Funding

Jon Seitz, District Legal Counsel, presented information concerning the California Supreme Court decision on assessment funding in Santa Clara County Open Space Authority case. The Court concluded that Proposition 218 requires courts to make an independent review of local agency decision. The burden is on the local agency to prove the assessed property is going to receive a special benefit over and above the benefits conferred on the public at large. There must be a project first, determine the cost, and then figure the assessment.

- C-4) DISTRICT COUNSEL JON SEITZ (CONTINUED)
 Presentation re California Supreme Court Decision on Assessment Funding

The Board discussed the report with Mr. Seitz. Bruce Buel, General Manager, noted that at the CSDA meeting in Irvine, David McMurchy spoke about the decision concerning.

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

Greg Burns, former employee of Marlowe and Company, stated that he joined the firm of Van Scoyoc Associates in July 2008. He informed the Board of some things happening in Washington, D. C. Money in Washington is always tight. It is good that the District has shown good faith effort to conserve water while seeking an additional water supply.

The Board thanked him for his dialogue.

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

Director Eby

He attended a CEQA compliance seminar Friday, September 19, 2008. He distributed copies of some information received. He provided information about Greenhouse gas laws and guidelines. CEQA is a disclosure document not regulatory.

Director Vierheilig

Sunday, October 5, 2008, Nipomo Native Garden will be having its annual plant sale at Rabobank on Tefft Street from 9-3.

The Finance and Audit Committee will meet Friday, September 26, 2008 at 9:00 a.m.

Director Harrison

September 25, 2008, there is a panel discussion for VOAD on animal evacuation in emergencies. It starts at 8:45 in the PG&E Community Center.

At the SCAC meeting, the California Department of Forestry gave a presentation that included information about the fire inspections for the 100-foot clearance regulation they made. There were approx. 160 violations within the 1200 homes inspected.

SCAC discussions included a possible card room in Nipomo that may be open until 4:00 a.m. some mornings.

The SLO County Sheriff officers found approx \$50,000 of copper wiring at a local recycling place. The wire had been stolen from Southern Pacific Railroad. The Sheriff's representative asked if you see anyone taking copper wire from Southern Pacific poles to notify the Sheriff's Department. No one is authorized to remove this wire at this time.

Nipomo Incorporation Committee for Education had a meeting September 20. Developers who had projects approved were present. Representatives from Olde Towne made a presentation. (263 members of our community attended this presentation)

Fire Safe Council meets Thursday, September 25. Notice was the Fire Safe Council received a grant and there should be funding for the chipping program next year. The Council commended Celeste Whitlow, NCSD staff and Board for their assistance in the program this year.

The chipping event in the Suey Canyon has been postponed until the budget is signed.

C-5) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
 (CONTINUED)

Director Winn

He thanked Celeste Whitlow for her assistance in presenting information to the Board of Supervisors at the meeting Tuesday, September 23, 2008. The ordinance will come back October 21st for final approval. Supervisor Gibson asked how to prove measurable amounts of water saved. He said final support for this would depend on the District being able to provide that information.

The Board of Supervisors approved all the language proposed by NCS D into the ordinance.

Creek Clean Up, Saturday, September 27, 2008, 9:00 a.m.

California Conservation Corp has a new conservation supervisor. CCC is not allowed to go into creeks to remove trash. They can remove vegetation that blocks creek flow.

The Hetrick right-of-way near Pomeroy is clogged with trash – furniture, appliances, etc.

The conversation with Chuck Baker of Rural Water Company regarding the four wells within the Cypress Ridge subdivision ended with the Board not wanting to participate.

TDC Ordinance update is being discussed today, September 24, 2008, in San Luis Obispo, 3:00-5:00 p.m. Perhaps this Board could draft a response. Information concerning the proposed ordinance can be downloaded from the County's website.

The San Luis Obispo County Chapter of CSDA met September 19th. It will be meeting the third Friday every other month. The next meeting will be November 21st.

Even though Supervisor Achadjian and the District disagreed about the Perrett detachment, Supervisor Achadjian is still very supportive in the District's efforts to obtain a supplemental water supply. He even suggested a possible sale of the unused water at Polonio Pass.

The Board took a break at 10:43 a.m. and returned at 10:57 a.m.

D. CONSENT AGENDA

Bruce Buel, General Manager, disclosed that he had no participation in Item D-7.

Director Eby asked to have Item D-5 pulled for separate consideration.

After some questions about Item D-3, Director Harrison asked to have Item D-3 pulled for separate consideration.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 9/10/08 Regular Meeting

D-3) ADOPT HEARING PROTECTION SAFETY POLICY

D-4) AWARD BID FOR PURCHASE OF TWO NEW PICK-UP TRUCKS

D-5) EXTEND TERM OF HOLLOWAY OUTSIDE-USER AGREEMENT

D-6) APPROVE PROPOSED POLICY REGARDING ABANDONMENT-IN-PLACE OF ASBESTOS-CEMENT WATER MAINS

D-7) EXTEND TERM OF GENERAL MANAGER'S EMPLOYMENT AGREEMENT

Director Winn had a minor change in Item E-2 of the Minutes for the Sept. 10, 2008 meeting.

Directors asked about the safety policy resolution.

Peter Sevcik, District Engineer, answered that the regulations were taken directly from the OSHA regulations and condensed to the resolution. The Board made several suggestions for the exhibit to the resolution.

D. CONSENT AGENDA (CONTINUED)

Upon motion by Director Vierheilig and seconded by Director Eby, the Board unanimously approved Items D-1, D-2, D-4, D-6, and D-7 of the Consent Agenda, as amended. There was no public comment. Vote 5-0.

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

Item D-3

D-3) ADOPT HEARING PROTECTION SAFETY POLICY

The Board discussed the Hearing Protection Policy. Several suggestions were discussed for changes in the policy. There was no public comment. Upon motion by Director Vierheilig and seconded by Director Harrison, the Board unanimously approved Resolution 2008-1103 adopting a Hearing Protection Policy. Vote 5-0.

**RESOLUTION NO. 2008-1103
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A HEARING PROTECTION POLICY**

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

Item D-5

D-5) EXTEND TERM OF HOLLOWAY OUTSIDE-USER AGREEMENT

Director Eby asked how much water is being requested for this project.

Answer: About 12.6 AFY.

He then asked how much in capacity fees have been paid and what is the potential capacity fees amount to be paid. Answer: No capacity fees have been paid and 18 times the current fee per lot will be charged for the 18 lots. The current fee is approx \$16,000 per lot. He stated that the applicant is asking for additional time over and above the original time allowed. When this project was originally approved, the District did not have the information from SAIC about the worsening water condition. There is no supplemental water supply available. Granting additional time seems to encourage speculation.

Jon Seitz, District Legal Counsel, stated this project was originally proposed to LAFCo that it needed an outside user agreement to prevent a mutual water company.

Ted Elder, Westland Engineering representative for applicant, stated that the applicant is asking for a two-year extension.

Director Eby asked if the applicant has applied to the County. Mr. Elder stated that the map has been submitted.

The Board discussed water being allocated in the past, desire not to have a mutual water company formed, not wanting septic systems leaching near the creek. The property is within the District's Sphere of Influence and a District sewer main goes along the west edge of the project.

Director Trotter would like this item tabled until Mr. Holloway could be present.

Director Harrison made a motion to approve staff's recommendation to adopt the resolution authorizing Amendment No. 1 to the Agreement for Providing Water and Sewer Service to Tract 2642. The motion failed due to the lack of a second.

D. CONSENT AGENDA (CONTINUED)

Upon motion by Director Eby and seconded by Director Trotter, the Board agreed to allow up to a six-month extension on the agreement, with the opportunity for the applicant to come back within that period to argue for a longer extension based on his due diligence in advancing the project.

Mr. Elder stated that he understood the motion. Vote 4-1, with Director Harrison voting no. The proposed resolution was not adopted.

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

The Board considered the Closed Session next.

02:46:59

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following to be considered 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 present to comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:01 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 12:53 p.m.

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

02:48:23

E-1) CONSIDER OPTIONS TO REDUCE FUTURE WATER PRESSURE TO CUSTOMERS IN SOUTHERN AREA AND AUTHORIZE BOYLE TO INCLUDE CHANGES IN WATERLINE INTERTIE PROJECT DESIGN

Bruce Buel, General Manager, introduced the options to reduce customer water pressures when the waterline intertie project is completed. The intertie project will create high pressures in the southern portion of the District. Boyle Engineering drafted Technical Memorandum No. 9 regarding the options.

E-1) CONSIDER OPTIONS TO REDUCE FUTURE WATER PRESSURE TO CUSTOMERS IN SOUTHERN AREA AND AUTHORIZE BOYLE TO INCLUDE CHANGES IN WATERLINE INTERTIE PROJECT DESIGN (CONTINUED)

Mike Nunley, Project manager from Boyle Eng., distributed charts to the Board with further options developed after the Board letter was published. Mr. Nunley reviewed the options with the Board. The options are available for viewing on the District website or in the District office.

The Board discussed the options in depth.

Upon motion by Director Trotter and seconded by Director Vierheilig, the Board unanimously agreed to pursue Option 5-B, and if that is not practical, then pursue Option 5-A. There was no public comment. Vote 5-0.

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

03:45:45

E-2 CONSIDER OPTIONS TO PAY FOR WATERLINE INTERTIE PROJECT DEBT SERVICE

Bruce Buel, General Manager, reviewed the options available to fund the necessary capital to construct the waterline intertie project.

- o User fees can be collected from existing customers, if there is not a majority protest amongst the property owners responsible for paying for the User Fee.
- o Assessments can be collected from all properties within the District within a reasonable distance from the existing main and standby charges can be collected from the remaining parcels, if the majority of property owners that participate return ballots in favor of forming the assessment district.
- o Special taxes can be collected from all properties in the District if 2/3rds of the registered voters in the District support the special tax measure on the ballot.
- o Community Facility District (CFD) funding is technically possible, but the market will not support it at this time.

The Board discussed the options. There was no public comment.

Upon motion by Director Eby and seconded by Director Trotter, the Board unanimously agreed to tentatively select assessment funding as the mechanism to fund the project's capital debt service and authorized staff to retain an assessment engineer on a time-and-materials basis for a not-to-exceed expenditure limit of \$10,000 to prepare the initial report. There was no public comment. Vote 5-0

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

The Board took a break at 2:10 a.m. and returned at 2:16 a.m.

04:04:27

E-3) AUTHORIZE COMMENTS ON STATE RECHARGE REGULATIONS

Bruce Buel, General Manager, explained that the State Department of Public Health (DPH) has published draft regulations and has requested feedback by October 31, 2008. He expressed that adoption of a set of regulations would minimize future controversy over recharge proposals; however, the regulations, as drafted, do not distinguish between discharge and recharge and do not address operations currently permitted by Discharge Order. The proposed regulations should be redrafted to address these issues.

E-3) AUTHORIZE COMMENTS ON STATE RECHARGE REGULATIONS (CONTINUED)

The Board asked questions and remarked on the draft regulations. There was no public comment.

Jon Seitz, District Legal Counsel, stated that NCSD will not be the only agency commenting on the language of the regulations. The distinction of recharge versus discharge must be made. Under Proposition 218 converting from a discharge to a recharge system would need funds and would require voter approval for the rate increase.

Director Trotter suggested that the District monitor comments from other agencies for at least two weeks.

Upon motion by Director Trotter and seconded by Director Vierheilig, the Board unanimously agreed to authorize staff to draft a letter to the State Department of Public Health, submit the draft letter to the Board and monitor comments from other agencies before sending the letter to the State. There was no public comment. Vote 5-0.

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

04:13:54

E-4) ADOPT RESOLUTION FORMALIZING BLACKLAKE SEWER FUND LOAN TO TRACK INTEREST OWED TO BLACKLAKE WATER FUND

Bruce Buel, General Manager, explained that the Board reviewed the negative fund balance in the Blacklake Sewer Fund at the August 27th Board Meeting.

The Board suggested some minor corrections to the proposed resolution.

Upon motion by Director Harrison, and seconded by Director Eby, the Board unanimously agreed to adopt Resolution 2008-1104, as corrected, establishing the interest rate on an interfund loan and repayment of interest. There was no public comment. Vote 5-0.

**RESOLUTION 2008-1004
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT ESTABLISHING THE INTEREST RATE
ON AN INTERFUND LOAN AND REPAYMENT OF INTEREST TO THE BLACKLAKE WATER FUND**

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

04:17:37

E-5) TERMINATE STREET SWEEPING AGREEMENT BASED ON PROVISION OF SERVICE BY SLO COUNTY

Bruce Buel, General Manager, explained that the District retained SP Maintenance in June 2006, to sweep streets within NCSD's boundaries. In 2007, the County initiated a monthly sweeping program for Nipomo Streets within the Urban Reserve Line and the Village Reserve Line. The County Public Works Department has requested that NCSD cancel its program so as to eliminate the duplication of service. The County is willing to continue its program even if NCSD cancels its street sweeping; however, the County is not willing to sweep areas outside of the Urban/Village Reserve Line.

NCSD's agreement with SP Maintenance (attached) provides for NCSD termination of service based on a 10-day notice. Mr. Buel stated that SP Maintenance has done a good job and is not recommending termination of the agreement for any failure on SP Maintenance's part.

E-5) TERMINATE STREET SWEEPING AGREEMENT BASED ON PROVISION OF SERVICE BY SLO COUNTY (CONTINUED)

Peter Sevcik, District Engineer, stated that what is driving this action by the County is the Stormwater MPDS requirement.

The Board discussed ideas to include in a letter to the County: Insist that the County sweeper use water rather than crating a cloud of dust. Nipomo is the only town in the County that is being fined for particulate matter over which Nipomo has no control.

Upon motion by Director Vierheilg, and seconded by Director Eby, the Board unanimously agreed to terminate the agreement with SP Maintenance and provide notice to SP Maintenance along with a thank you for service rendered. There was no public comment. Vote 5-0.

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

04:29:29

E-6) CONSIDER OPTIONS TO ADDRESS OFFICE STRUCTURAL PROBLEMS

Peter Sevcik, District Engineer, explained periodic maintenance is necessary to maintain the integrity of the District office building at 148 South Wilson Street. The exterior is showing signs of the need for some maintenance.

The Board discussed the proposed work to be performed after fumigation is completed.

Upon motion by Director Vierheilg, and seconded by Director Eby, the Board unanimously agreed to authorize the General Manager to execute a contract with Terminix International in the amount of \$9,334 and authorized the General Manager to issue Change Orders with an aggregate Change Order total not-to-exceed \$2,000. There was no public comment. Vote 5-0.

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

04:36:25

E. MANAGER'S REPORT

Bruce Buel, General Manager, stated that his report is as presented in the packet with a few additional comments.

Another resident in the Summit Station area contacted the District stating her well was out of water.

Director Eby asked about tracking well levels in the area.

Peter Sevcik, District Engineer, stated that the levels will be reported during his monthly report to the Board. The next report will be presented October 8, 2008.

04:44:45

G. COMMITTEE REPORT

1. 9/8/08 Water Conservation Committee Meeting
2. 9/8/08 Supplemental Water Project Committee Meeting

The Board had questions on the Woodlands intertie. Mr. Buel will investigate further.

04:47:41

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Vierheilig

He would like a copy of the committee assignments.
Luncheon at Woodlands, Thursday, September 25, 2008.

Director Winn

He would like a date when Cachuma RCD is going to reassess water in Nipomo Park.
Cachuma will do it at no cost to the District.

He would like resuming analysis for solar panels, such as pay back number of years, etc. as long as the office roof will be having work on it.

He has been receiving phone calls from Bill Kengel.

Tuesday, October 14th Board of Supervisors will be held at Grace Church gymnasium on corner of Osos and Pismo Streets to have a strategic planning meeting.

He asked if the District has received a response from the County concerning no new wells in the District. He would like to send another letter asking for a response.

He asked if the Governor had signed the budget concerning salt regenerating water softener systems.

Mr. Burns said regular progress reports concerning the waterline intertie project should be sent to the senators, including the District's conservation efforts, especially when the session is out.

ADJOURN

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

- **THE NEXT REGULAR BOARD MEETING IS OCT. 8, 2008.**
TENTATIVELY SCHEDULED ITEMS INCLUDE:
- Provision of Water Service to Blacklake
 - Salts Management