

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 43 - Years of Service 1965 - 2008

MINUTES

OCTOBER 8, 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, Director Winn, Harrison, Eby and Vierheilig were present. Director Trotter had a planned absence.

00:00:47

C. PRESENTATIONS AND PUBLIC COMMENT

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

Update re: Sheriff's Activities on the Nipomo Mesa

Sgt. Steve Harris represented the Sheriff's Office. The graffiti at the Santa Maria bridge was painted over twice. A car in Oceano was broken into and a purse stolen. Internet scams are on-going and are turned over to a FBI agent in Santa Maria. A burglary was in progress when a Blacklake homeowner arrived at his home. A concerned citizen called about the pregnant lady that lives under the bridge. The officer went to check on her and was told she had gone to the hospital.

C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

Update re: Cal Fire Activities on the Nipomo Mesa

Battalion Chief Bill Fisher reviewed the Activity Report for September:

Nipomo Station 20 had a total of 96 calls: 15 fires, 12 vehicle accidents, 59 medical aids and 10 other calls.

Mesa Station 22 had a total of 46 calls: 4 fires, 5 vehicle accidents, 28 medical aids and 9 other calls.

Fire Prevention Week will include fire engines going to elementary schools for education. They are working on setting a date for the chipping event. Station 22 will be completed in April.

C-3) DISTRICT ENGINEER PETER SEVCIK

Update re: District Engineer Activities

District Engineer Peter Sevcik gave an update of recent activities. He reviewed the outline in the Board packet and answered questions from the Board.

- A field trip to Moorpark is planned for the field crew and Boyle to look at their Biolac plant on October 28.
- Recycled Water Survey was sent out.

C-3) DISTRICT ENGINEER PETER SEVCIK (continued)

- Met with Cannon & Associates on upgrades to the software for the SCADA and standpipe mixing
Director Eby asked about the well water level. Mr. Sevcik stated the wells were manually dipped because IPPAC is not calibrated properly. Director Winn suggested we need a sampling protocol. Director Winn also suggested that our employees receive training on agricultural spraying.

C-4) NOT USED

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

Receive Announcements from Directors Items of District & Community Interest

Director Harrison

October Fest is Saturday, October 11

Director Vierheilig

Native Garden Plant Sale was successful and plants will be for sale at the October Fest

Director Winn

He observed the street sweeper and it appears they are using water for dust control.

A recycling station in Nipomo is not accepting all types of recycling as required by law.

On January 23, 2009, UCLA will be sponsoring a Land Use and Law Conference Update. Director Winn is planning on attending and is willing to carpool.

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Bill Petrick, NCS D resident, commented on Mr. Sevcik's report and stated that the Technical Group is addressing water well levels and trigger points and that sea water intrusion is 10-15 years away.

Director Eby asked if we participate in the Technical Group. Mr. Buel said yes. District Legal Counsel, Jon Seitz, stated that documents from the Technical Group are not public documents until they are submitted to the court and the only document submitted to the Court thus far is the Monitoring Program.

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 9/24/08 Regular Meeting

D-3) AWARD BID FOR INSTALLATION OF FENCING AT SOUTHLAND YARD

Director Harrison asked that Item D-3 be pulled for separate consideration.

Director Eby asked about Water Fees paid to Dept of Health Services. Answer –Annual permit fees for review of our water system. Director Harrison stated that Nipomo Hardware is no longer an Ace Hardware. Director Winn had a minor addition to Item C-5 of the Minutes.

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

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

D. CONSENT AGENDA (continued)

Item D-3

Director Harrison stated that it looked like three bids for three different projects due to the differing lengths of fencing and some with barbed wire and some without barbed wire. Director Harrison made a motion and seconded by Director Vierheilg to table this item. There was no public comment. Mr. Buel stated an RFP was not prepared and vendors were asked to do their own measuring and submit a quote. Director Harrison withdrew his motion and Director Vierheilg withdrew his second to the motion. Upon motion of Director Eby and seconded by Director Vierheilg, the Board unanimously approved Staff's recommendation and awarded the bid to Town and Country. There was no public comment. Vote 4-0.

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

00:49:42

The Board of Directors agreed to hear Item E-3 next since the rate consultant, Bob Reed had not yet arrived for Items E-1 and E-2.

The Board of Directors took a five-minute break at 9:50 a.m. and reconvened at 10:00 a.m.

00:50:02

E-3) CONSIDER DRAFT SALTS MANAGEMENT REPORT AND DISCUSS OPTIONS TO MINIMIZE SALT DISCHARGE INTO TOWN AND BLACKLAKE SEWER SYSTEMS

Bruce Buel, General Manager, stated the Water and Sewer Master Plan recommended NCSD address the salts issue. Boyle Engineering was retained to prepare a Salts Management Plan for the Town and Blacklake Sewer Systems. Neither plant is meeting its discharge requirement. The Governor vetoed AB 2270 last week.

Mike Nunley and Kirk Gonzalez of Boyle Engineering, presented a power point presentation on their findings based in the Draft Salts Minimization Plans. Mr. Buel stated the need to prospectively deal with new installations of self-regenerative water softeners (SRWS) and education and/or incentives to existing owners of SRWS to replace or eliminate them.

George Billinger, NCSD resident, stated BLMA actively pursued the removal of SRWS within the Village by providing a \$250 incentive. 8 or 9 SRWS were removed, but they had trouble getting information from NCSD to determine if this made a difference.

James Pelky, NCSD resident, asked if he could use the SRWS since he is on septic, does potassium chloride work better and if supplemental water is high in salts what would be the impact on landscaping?

Mark Westfall, NCSD resident, stated the report didn't consider the mix of well water with town water supply and the Fairway Homeowners Association Rules and Regulations prohibit SRWS but enforcement is a problem.

Ian Wallace, NCSD resident, stated RWQCB missed the boat at only looking at salt from the treatment facilities. There a large number of septic tanks with no restrictions on the use of SRWS. Enforcement with no authority to inspect is a problem.

Bill Petrick, NCSD Resident, has a problems with 1) the accuracy of the data in the Boyle Report and 2) the conclusions in the Boyle report and 3) referenced the November 9, 2007, Boyle Report.

Mr. Buel responded:

- Three months ago the RWQCB adopted draft on-site regulations that would prohibit SRWS for septic disposers
- Potassium Chloride is addressed in Boyle's report

E-3) CONSIDER DRAFT SALTS MANAGEMENT REPORT AND DISCUSS OPTIONS TO MINIMIZE SALT DISCHARGE INTO TOWN AND BLACKLAKE SEWER SYSTEMS (cont)

- Supplemental water is lower in salt not higher in salt
- The Boyle report did not address the mixing of water since the potential merger has not occurred. The salts violations occurred prior to the intertie being installed.
- Enforcement, such as the Country Club model, was prior to the adoption of Proposition 218

Upon motion of Director Eby and seconded by Director Harrison, the Board unanimously agreed to adopt Staff recommendations and explore anything that may be helpful. Vote 4-0.

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

01:57:17

E-1) ACCEPT BLACKLAKE SEWER FINANCIAL PLAN AND SET PROTEST HEARING ON PROPOSED USER FEE INCREASE AND SURCHARGE

Bruce Buel, General Manager, stated the draft report was presented to the Board in August. The Ad Hoc Committee met twice with representatives from Blacklake and forwarded recommendations to the Board. At the September 10, 2008, Board Meeting the Board agreed with the recommendations submitted by the Ad Hoc Committee and directed Bob Reed to incorporate the recommendations into the Financial Plan. Bob Reed, Rate Consultant, provided an update of the Financial Plan to the Board. The updated plan takes into consideration the following;

- Replacement Study objectives recently approved by the Board of Directors
- Maintaining an adequate O&M Reserve
- Postponement of the following capital improvement projects-access to the Lift Station, repair of the sewer trunk line and replacement of the pond liner

With the proposed rate increases over the next five years, there should be enough funds in the sixth year to initiate the capital improvement projects.

There is less disparity between the Single-Family and Multi-Family sewer rates based on water use and estimated sewer flows.

Bill Petrick, NCSD resident, commends the effort of Blacklake and the Ad Hoc Committee and doesn't like the results but acknowledges that something needs to be done. He asked what assurances can be given that this will not happen again. He feels there is no accountability or cost controls and suggests NCSD and BLMA meet quarterly on this financial crisis. Mr. Petrick suggests the Board approve a 2 year rate increase and not a 5 year rate increase.

Bill Nelson, NCSD resident, stated that a number of assumptions were made in order to get the rate increases down.

Mr. Buel responded to public comment-adoption of a five year rate increase is prudent because a two year rate increase does not get the fund even. At three years, the fund is projected to be even.

Director Winn stated the Ad Hoc Committee looked at Alternative A and the financial burden.

E-1) ACCEPT BLACKLAKE SEWER FINANCIAL PLAN AND SET PROTEST HEARING ON PROPOSED USER FEE INCREASE AND SURCHARGE (continued)

Director Harrison asked how the cost of operating Blacklake Sewer compares to other plants of similar size. Mr. Reed said the RWQCB prepares an annual survey report. Mr. Seitz pointed out that each plant is unique and one must be careful in their comparisons due to variables in treatment, etc. Director Winn pointed out that Cypress Ridge discharges onto a golf course and has lost over \$500K in the past few years. Director Eby objects to the reference of this as a financial crisis-it is a financial plan and prudent plan.

Upon the motion of Director Vierheilg and seconded by Director Harrison, the Board unanimously approved the Financial Plan, Resolution and set the Public Hearing for December 10, 2008. Vote 4-0.

**RESOLUTION 2008-1105
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING BLACKLAKE SEWER FINANCIAL PLAN AND ESTABLISHING
DECEMBER 10, 2008 TO CONSIDER WRITTEN PROTESTS TO PROPOSED RATE INCREASES**

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

02:22:30

E-2 RECEIVE REPORT FROM RATE CONSULTANT REGARDING MERGER OF BLACKLAKE AND TOWN WATER SYSTEMS, PROVIDE POLICY GUIDANCE AND AUTHORIZE DISCUSSIONS WITH BLACKLAKE COMMUNITY

Bruce Buel, General Manager, reviewed the directive given to Bob Reed, Rate Consultant. The directive was to prepare a "tip point" analysis to determine if rates would be higher for either division with our without the merger. Mr. Reed's analysis determined that rates for both divisions would be lower with a merger. Economy of scale and the avoidance of rebuilding the Blacklake booster station are advantageous to both divisions. Mr. Reed stated that since his analysis did not show a rate increase he didn't look at the surcharge. Mr. Reed stated that the delivery of supplemental water was added to the analysis and he used estimates for delivery in year 2011.

Director Eby confirmed that the Reed Report did not reflect his proposal in the staff report. Director Eby stated the current operating reserve per account at Blacklake is 4% and should be 15%. If the two systems were combined the reserves should be brought up to 15% which is about \$182,000 surcharge.

Director Harrison asked if Director Eby took Fund 700 into account. Director Eby said no.

Director Winn asked about the \$4.8M in Fund 700 (Capacity Charges) and how the money could be used in the merged system. Would there be no restrictions?

Bill Petrick, NCS D resident, agrees with Mr. Reed that no surcharge is required, but he is worried about the basis for future rates including factors such as water conservation, supplemental water and cost controls.

Ian Wallace, NCS D resident, stated if Board should proceed, he has lingering concerns about undisclosed costs in the Town system. He would like Staff and the President to state to the best of their knowledge that there are no undisclosed items.

E-2 RECEIVE REPORT FROM RATE CONSULTANT REGARDING MERGER OF BLACKLAKE AND TOWN WATER SYSTEMS, PROVIDE POLICY GUIDANCE AND AUTHORIZE DISCUSSIONS WITH BLACKLAKE COMMUNITY (continued)

Director Vierheilg suggested Mr. Wallace review the Water and Sewer Master Plan. Mr. Buel stated that the Master Plan is a blueprint; however, there are always unknowns. The new Title 22 regulations are not incorporated into the adopted Water and Sewer Master Plan. The system is dynamic. Mr. Buel stated that there are "no gorillas or elephants in the closet". Mr. Buel also stated that the "tip point" analysis was not was for rate setting. If the merger proceeds, then a new financial plan with more detail would need to be commissioned.

Director Eby would like the reserves to be equalized. This would equate to \$297 per customer or \$5.81 bi-monthly and does not include Fund 700. He believes this would be equitable for both Divisions.

Director Winn stated:

- The Reed Report did exactly what was asked
- A reduction in rates would occur
- Agrees with Director Eby that some basic equity in reserves makes sense.
- Struggles with \$4.8M in Fund 700 and believes that this would be a donation of 15% of \$4.8M to Blacklake to make them happy
- His home built 20 years ago donated to Fund 700 and those funds have been spent
- Would like another way to look at Fund 700
- Form Ad Hoc Committee to review issues with Blacklake
- Misty Glen and Augusta/Pomeroy need interties that would benefit Blacklake only and should be paid for by Blacklake
- Well #3 need refurbishing and the tank needs cleaning and coating, but would benefit the merged system and could be paid for 15% by Blacklake and 85% by Town
- This would be about \$400 per account for Blacklake

Director Vierheilg stated Fund 700 was paid by developers and ultimately the buyers of those homes. Blacklake had a Fund 700 and was used to fund Sundale and there are no opportunities to collect Fund 700 fees from Blacklake.

Upon the motion of Director Eby and seconded by Director Harrison, the Board unanimously agreed to form an Ad Hoc Committee to interact with Blacklake to look at a reserve equity charge, examine issues of Fund 700, review issues discussed at today's meeting and bring back options to the Board. Vote 4-0

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

President Winn appointed Director Harrison and himself to the Ad Hoc Committee.

President Winn stated that Item E-4 would be heard at approximately 1:00 p.m.

03:08:00

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 VS. NCSD 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 12:19 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board returned at 1:20 p.m.

Jon Seitz, District Legal Counsel, reported that no reportable action was taken.

03:08:37

E-4) ACCEPT FY 07-08 AUDIT

Bruce Buel, General Manager, introduced the item and stated the Finance and Audit Committee had met with the Auditor on September 26, 2008. Mr. Bob Crosby, CPA presented the audit report and answered questions from the Board. Mr. Winn stated he did not like staff's recommendation to accept and file the report. Mr. Buel stated that Mr. Crosby is giving his opinion on the report and the Board of Directors is asked to accept his opinion.

Bill Petrick, NCSD resident, read a list of six concerns suggesting the audit fails to assist the reader in identifying significant financial issues.

Mr. Crosby, CPA stated the bulk of his report is technical in nature and in accordance with governmental standards. Mr. Cosby does perform analytical review as part of his work. The Management Discussion and Analysis is presented by staff as an overview for the public and is not intended to address items in detail.

Director Vierheilg pointed out the operating loss and stated the District should not rely on other revenues.

Upon motion of Director Harrison and seconded by Director Eby, the Board unanimously agreed to accept and file the FY 07-08 audit report. Vote 4-0.

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

03:38:00

F. MANAGER'S REPORT

Bruce Buel, General Manager, presented the Manager's Report as printed in the Board packet. In addition, the October 20 SWP Committee Meeting has been canceled. The Landscape Maintenance District meeting was held the prior evening. The homeowners would prefer to keep the grass and spend funds on installing controllers and other technology to save water. The sea train has been delivered (included in the 08-09 budget).

03:42:00

G. COMMITTEE REPORT

1. 9/26/08 Finance and Audit Committee Meeting

The SWP Committee meeting planned for October 20, 2008, has been canceled. A Water Conservation Committee meeting is planned for October 17, 2008.

03:43:00

H. DIRECTOR REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn

- Would like a follow up report on the Clean Up Week from South County Sanitary
- Would like a follow up report on Creek Day
- The County will be holding two kinds of meetings to introduce a full range of planning. The first meeting will be held on October 10, 2008 at the SLO Library from 8:30 – 10:30. The topic is Strategic Growth (formerly known as Smart Growth)
- October 14, 2008 the Board of Supervisors will be meeting at 1:00 p.m. at Grace Church in SLO to discuss the state budget
- October 14, 2008, the Board of Supervisors will hold a hearing on Title 9 regarding on-site waste treatment regulations
- NCSD office will be closed on November 10 and 11 for fumigation.
-

Director Harrison

- Asked about clean up efforts on Live Oak Ridge Right of Way-Director Winn stated there is a an effort being organized

The meeting was adjourned at 2:05 p.m.

➤ **THE NEXT REGULAR BOARD MEETING IS OCT. 22, 2008.****TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Comments on Draft County Bio-Solids Ordinance
- Conversion of Sundale Well from natural Gas to Electric