

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 43 - Years of Service 1965 - 2008

MINUTES

NOVEMBER 12, 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, **ASST. 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 November 12, 2008 meeting of the Nipomo Community Services District to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all Board members were present.

00:00:48

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

Commander Brian Hascall of the San Luis Obispo Sheriff's Office gave a report of the recent Sheriff's activities on the Nipomo Mesa.

Oct. 31, 2008 - There was a burglary on Hunter Ridge at 5:30 p.m. The door was kicked in by the perpetrator.

Nov. 7 - There was a battery with a machete on Camino Caballo. It involved a goat being slaughtered.

Nov. 10 - A person was struck by a train in Oceano.

Commander Hascall provided a safety tip for holiday deliveries. Provide an alternate delivery address if no one plans to be home when a delivery is scheduled.

At 7:00 on a school morning, a sixteen-year-old boy and his ten-year-old sister were struck by a septic pump truck on Pomeroy Road near Ten Oaks Way. The boy was blinded by the early morning sun.

The Board asked about the health issue of slaughtering a goat in town. Cmdr. Hascall stated that the Health Department could be contacted. The incident mentioned was in a rural area

The Board also discussed the issue of speed limits on Pomeroy.

The Board thanked Cmdr. Hascall for the report.

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 October:

Nipomo Station 20 had a total of 108 calls: 14 fires, 10 vehicle accidents, 42 medical aids and 42 other calls.

Mesa Station 22 had a total of 49 calls: 3 fires, 8 vehicle accidents, 27 medical aids and 11 other calls.

Firefighters attended training with Conoco-Philips.

A control burn was conducted on the Porter Ranch at Hwy 166 and Alamo Creek Road.

The Board thanked Battalion Chief Fisher for the report.

C-3) CHUCK STEVENSON OF SLO COUNTY PLANNING DEPT.
Update re: Oakglen Specific Plan

Chuck Stevenson of the San Luis Obispo County Planning Department presented information concerning the Oakglen Specific Plan.

TDC program is in a holding pattern.

The downturn of the economy has affected the budget. The County has had to curtail some services.

Benefits from program – postponed.

The Board asked Mr. Stevenson about how supplemental water affects TDCs.

The Board thanked Mr. Stevenson for the update.

C-4) 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.

- Managing effort to finalize the Master Plan
- Utility Supervisor Rick Motley, Utility Superintendent Tina Grietens, District Engineer Peter Sevcik, and a representative from Boyle Engineering visited Ventura County Wastewater Treatment Facility in Moorpark to observe the Biolac system on October 28.
- Water and Sewer Master Plan Implementation
- Santa Maria Waterline Intertie Project
- Willow Road Waterline Extension Phase 1 Project
- Sewer System Management Plan
- Sundale Well
- Safety Program
- Development Plan Review
- Well level reporting

Mr. Sevcik answered questions from the Board about the "NCSD Production Well Water Level and Rainfall" charts provided

The Board thanked Mr. Sevcik for the report.

C-5) DISTRICT WATER CONSERVATION COORDINATOR CELESTE WHITLOW
Updates re: Creek Day and Community Clean-Up Event

Celeste Whitlow, Water Conservation Coordinator, reported that:
Community Clean Up Week was held the last week of September.

Creek Day was a success. There was not as much to clean out of the creek this year as in the past. Some property owners did not allow access to the creek in some areas, and some areas were avoided due to unsafe conditions. There were several groups headed up by Ms. Whitlow, Jill Falcone, Dawn Applegate and Danny Diaz. About 50 people participated, including many teens.

Computer monitors and old TVs should be taken to the hazardous waste disposal center on Southland Street on Saturdays from 11:00 a.m. to 3:00 p.m.

C-6) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest

Director Harrison

Water purveyors will meet at the NCSD building January 15, 2009, at 2:30 p.m. to discuss the three-tiered water rate system.

The Rotary Club will hold its Christmas Parade of Lights Saturday, Dec 6, 2008. It starts at 5:00 p.m.

Director Winn

The San Luis Obispo County Planning Commission will meet Thursday, Nov. 13, 2008. One item to be discussed is "Transfer Development Credit".

There is continued concern over the Laetitia ag cluster proposal to use 33,000 gallons of water per day.

Land Use Committee of SCAC will meet Monday, November 24th, at 9:00 a.m.

California Special District Association will meet Friday, November 21st in San Luis Obispo at Wallace Group office.

Water Resources Advisory Committee will meet December 3rd, at 1:30 p.m. in San Luis Obispo. The update on the Conservation Element is going slowly, and the Water chapter still has nothing on riparian demand.

Some public outreach information could include options for disposal of electronic devices.

C-7) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Bill Larson, Nipomo resident, stated that the newsletter contained some errors. The information should be checked better before it is mailed.

01:02:30

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of 10/22/08 Regular Meeting

D-3) ACCEPT QUARTERLY FINANCIAL REPORT

D-4) AUTHORIZE RETENTION OF STRUCTURAL ENGINEER TO EVALUATE OPTIONS FOR IMPROVED MIXING AT STANDPIPE WATER STORAGE RESEVOIR

D-5) INTRODUCE PERSONNEL POLICY DESIGNATING CERTAIN POSITIONS WITH SENSITIVE POSITION DESIGNATION

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D. CONSENT AGENDA (CONTINUED)

D-6) CONFIRM PERS "PICK-UP" POLICY

RESOLUTION NO. 2008-1109
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
CONFIRMING PERS EMPLOYER "PICK-UP" POLICY

D-7) ACCEPT UPGRADES TO TOWN WATER SYSTEM CONSTRUCTED BY THE WOODLANDS

RESOLUTION NO. 2008-1110
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING OFF-SITE WATER IMPROVEMENTS FOR TRACT 2341 (WOODLANDS)

Bruce Buel, General Manager, asked to pull item D-5 for separate consideration.

Director Vierheilg asked about the warrants presented. Mr. Buel explained the repeated charges for Abalone Labs are for daily samples taken from the Blacklake WWTF. Director Trotter asked to have the word "motor" in Item E-1 of the October 22, 2008 Minutes changed to "engine".

Upon motion by Director Vierheilg and seconded by Director Eby, the Board unanimously approved Items D-1, 2, 3, 4, 6, and 7, as amended. Vote 5-0.

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

ITEM D-5

The Board discussed the proposed policy changes concerning pre-employment drug testing. Upon motion by Director Vierheilg and seconded by Director Harrison, the Board unanimously agreed to direct staff to circulate the proposed amendment to the District's Personnel Policies to employees and directors for further comment, as edited; and set December 10, 2008, for further consideration and adoption of the proposed amendment to the District's Personnel Policies. Vote 5-0.

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

The Board took a break at 10:22 a.m. and resumed the meeting at 10:35 a.m.

01:21:40

E. ADMINISTRATIVE ITEMS

E-1) RECEIVE REPORT FROM BLACKLAKE WATER SYSTEM AD HOC COMMITTEE, CONSIDER OPTIONS TO PROVIDE WATER SERVICE TO BLACKLAKE AND PROVIDE POLICY DIRECTION ON PROCESS

Bruce Buel, General Manager, explained that in October 2008 the Board reviewed the Reed Group "Tip-Point Report", formed an Ad Hoc Committee comprised of President Winn and Vice President Harrison, authorized the Committee to interact with Blacklake; directed the Ad Hoc Committee to report back at this Board Meeting and directed staff to describe the options remaining to Blacklake should there be a majority protest to a new Protest Proceeding.

The Ad Hoc Committee met with representatives of Blacklake on October 29, 2008. Minutes of that meeting are included in the Board packet, along with a spreadsheet detailing a proposal for calculation of a buy-in at \$436.70 per equivalent 1" meter.

- E-1) RECEIVE REPORT FROM BLACKLAKE WATER SYSTEM AD HOC COMMITTEE, CONSIDER OPTIONS TO PROVIDE WATER SERVICE TO BLACKLAKE AND PROVIDE POLICY DIRECTION ON PROCESS (CONTINUED)

Mr. Buel explained that he received emails from Mr. Bill Petrick objecting to using the projected reserve numbers set forth in the Reed Report. Mr. Petrick wrote that "the contribution to operating reserves should be a defensible number based on the year-end audited financial statement." Mr. Petrick then further questioned the use of cash balances and inquired as to why NCSD was not using unrestricted assets as the basis for calculating the appropriate contribution from Blacklake. (Copies of the emails are appended to these minutes.)

Should there be a majority protest to a new Proposition 218 protest proceeding, staff believes that such a majority protest would indicate that Blacklake is not willing to pay for the merger of the two systems and that the District should either remove or inactivate the eight-inch intertie installed on an emergency basis to facilitate the merger. Prior to removal/inactivation of the 8" intertie, NCSD would need to use the remaining Blacklake Water Fund reserves to re-plumb the transfer pump and reactivate the hydro-pneumatic tank so that Blacklake's two wells could meet the demand not covered by the old 4" intertie. A second alternative might be to design a fully compliant Title 22 Upgrade to present to Blacklake as a subsequent Proposition 218 Protest Proceeding after the initial re-plumbing was completed.

Director Trotter stated that the residents at Blacklake do not want a stand-alone water system, nor is there enough money for a fully functional stand-alone system.

The following members of the public spoke:

Bill Petrick, NCSD resident, stated that the staff report for this item is inaccurate, untrue and can lead to confusion. He stated that his name was used erroneously throughout the published Board letter and wants the information retracted and removed from public distribution. He requested information in writing and did not suggest that the request involved BLMA or its sub-committee. He further stated that he did not suggest that another alternative be presented to the Board.

Pat Eby, NCSD resident, stated that the Blacklake Committee that met with the NCSD Ad Hoc Committee had no BLMA authority to support the suggested proposals. Mrs. Fleming stated at the Blacklake meeting that they had only come to gather information. She also stated that Mr. Winn wants a logical proposal. She asked how \$130,000 for the interior coating and \$20,000 for the exterior coating is logical. The operating reserves should relate to the Blacklake operating costs. BL residents need to know what their future costs will be with the merger. She stated that to remove the intertie would threaten water pressure and fire protection to Blacklake homes.

President Winn asked Mr. Buel to append a copy of the emails from Mr. Petrick to the minutes of this meeting so there will be no question as to the requests made.

Jon Seitz, District Legal Counsel, stated that if the two systems are merged, the funds would be merged as one unit. It would not be Blacklake costs and Town costs. That is the balance between a stand-alone system and a unified system. All District residents would be responsible for operating costs everywhere.

Director Trotter stated that the Blacklake Committee and the NCSD Ad Hoc Committee agreed on a number. It should be moved forward.

Director Winn noted that the two groups agreed on an algorithm, that in turn produced an actual number.

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- E-1) RECEIVE REPORT FROM BLACKLAKE WATER SYSTEM AD HOC COMMITTEE, CONSIDER OPTIONS TO PROVIDE WATER SERVICE TO BLACKLAKE AND PROVIDE POLICY DIRECTION ON PROCESS (continued)

Director Eby asked who personally made those cost estimates.

Peter Sevcik, District Engineer, stated that the tanks costs were based on the latest Replacement Study. The interconnect costs were posted in the "Water and Sewer Master Plan". Those costs did not include engineering or construction management costs. The percentage mentioned is a planning level number.

Mr. Sevcik stated that Blacklake tank costs were prepared by Boyle Engineering in the Replacement Study. The Interconnect costs were posted by Cannon in the "Water and Sewer Master Plan".

Director Winn thanked the people from Blacklake who participated in the discussions.

Upon motion by Director Trotter and seconded by Director Harrison, the Board unanimously agreed to direct staff to prepare a draft ordinance as agreed upon by the two ad hoc committees and set a hearing for November 26, 2008, to introduce the ordinance and the report. Vote 5-0.

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

01:48:10

- E-2) AUTHORIZE SUBMITTAL OF LETTER TO CPUC SUPPORTING PROPOSED REVISION TO GOLDEN STATE WATER COMPANY'S RATE STRUCTURE

Bruce Buel, General Manager, reviewed the background of the proposed letter of support to the California Public Utilities Commission (CPUC) regarding Golden State Water Company's request.

Director Trotter asked how a utility got involved in another utility's rate structure process.

Mr. Buel explained Supervisor Achadjian assembled several purveyors together as a support group. Most of the purveyors are on an inclining block water rate structure. The Utilities Commission is dictating that all utilities regulated by them go to the inclining rate structure. All water purveyors should try to maximize water conservation efforts for the health of the Mesa.

Director Harrison stated that whenever the District Board discussed rates in the past, it was mentioned that the District only uses about 30% of the water on the Mesa and it would seem punitive to have a three-tiered rate for only District customers. Supervisor Achadjian got the purveyors together to discuss the fact that we all needed to conserve water on the Mesa. The next time the rates are presented to this Board, he expects to vote in favor of a 3-tier rate structure. It has been proven to be effective.

The following member of the public spoke:

Dan Woodson, Nipomo resident, stated before he had landscape designed for his property, he was told that there was ample water to accommodate build-out growth on the Mesa. He landscaped a large portion of his lot. He planted a lot of drought-tolerant plants and has water-conserving fixtures in the house. It is not economically advantageous to let the mature landscaping die. He requests that the Board vote against this proposal.

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E-2) AUTHORIZE SUBMITTAL OF LETTER TO CPUC SUPPORTING PROPOSED REVISION TO GOLDEN STATE WATER COMPANY'S RATE STRUCTURE (continued)

Christina Bird-Holenda, resident of the Mesa, stated this group should not send a letter to support a 3-tiered structure when the NCSD is on a two-tier system.

Terry Buterbaugh, Mesa resident, stated that NCSD should not support Golden State doing something that NCSD is not doing for itself. This Board has nothing to do with his water system. The increased rates do not encourage conservation.

The Board discussed if there are facts that prove that three-tiered rates saves water. Director Eby stated that Golden State wins with the 2- or 3-tier rate system. It is an unproven theory that 3-tier rates conserve water. He also stated that the trip to the PUC hearing to promote another company's financial gain is probably not a legally defensible expense and will be voting to not send this letter or the General Manager.

Director Vierheilig stated that he feels chagrined to send this letter when the District has turned down a three-tiered rate. Golden State's rates are cheaper than the District's but he cannot understand how the rate structure is revenue-neutral. Mr. Buel explained that the 2-tier structure is revenue-neutral.

Director Winn asked staff to present facts that the three-tiered structures are water conserving. It is in fact "social engineering", trying to change customers' water-use behavior. It would be unfair to our residents if we (the District) were the only ones set out to conserve water. We are all using one aquifer. Governor Schwarzenegger called for a 20 percent water reduction statewide to be mandatory by 2020, and Nipomo with its high use will be targeted more than most other places. In order to fund the pipeline to Santa Maria, the District needs support from others.

Director Trotter stated that the letter is self-serving. Director Eby asked if Golden State is supporting the District in its efforts for supplemental water and to conserve water.

The Board discussed edits to the proposed letter to the CPUC.

Upon motion of Director Harrison and seconded by Director Vierheilig, the Board approved sending the letter to the CPUC. Vote 3-2 with Directors Eby and Trotter voting no.

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

Upon motion by Director Harrison and seconded by Director Vierheilig, the Board authorized the General Manager to participate in a CPUC hearing on this matter in support of the tiered rate proposal. Vote 4-1 with Director Eby voting no.

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

00:35:00

E-3) PREVIEW DRAFT ORDINANCE ADDING LANDSCAPE AND IRRIGATION REVIEW PROCEDURES TO DEVELOPMENT PROCESS AND SET INTRODUCTION

Bruce Buel, General Manager, reviewed the information provided in the Board packet. October 20, 2008, the Water Conservation Committee unanimously recommended that the Board amend Section 3.05 of the District Code to enable District review and approval of landscape plans and irrigation systems for new non-residential development. This recommendation results from recent construction with heavy water use landscape palettes. The County has revised standards for new development. Adoption of a draft ordinance would allow for NCSD to ensure that the new construction actually implements the new Title 19 and 22 requirements.

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E-3) PREVIEW DRAFT ORDINANCE ADDING LANDSCAPE AND IRRIGATION REVIEW PROCEDURES TO DEVELOPMENT PROCESS AND SET INTRODUCTION (continued)

Jon Seitz, District Legal Counsel, explained that the proposed ordinance will affect new, commercial development and spelled out in the Intent-to-Serve letter. The landscape plan and projected water consumption must meet the total water allocation in the conditions of the Intent-to-Serve letter.

Director Eby stated that the proposed ordinance changes are not specific. Director Winn suggested adding "consistent with limits set in the Intent-to-Serve letter" to 3.05.030 F. Director Eby asked what can be done about post-construction landscaping changes.

Celeste Whitlow, NCSD Water Conservation Coordinator, stated that customers have complained about commercial landscaping. NCSD cannot do anything about the choice of plants or spacing after construction of landscaping begins.

The following member of the public spoke:

Bill Nelson, NCSD resident – stated there is a problem on Sunday Drive now. There was no landscape plan even though in the Blacklake Specific Plan some landscaping was required. A development must have a landscape plan.

Upon motion of Director Vierheilig and seconded by Director Trotter, the Board unanimously agreed to approve the proposed ordinance changes as edited and to set the introduction of the proposed ordinance for the November 26, 2008 Board meeting. Vote 5-0.

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

The Board considered the Closed Session (Item I) next.

I. CLOSED SESSION ANNOUNCEMENTS

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

K. ADJOURN TO CLOSED SESSION

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

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:44 p.m.

Jon Seitz, District Legal Counsel, announced that the Board heard an update on each of the items listed above.

There was no reportable action.

03:02:03

E-4) CONSIDER VICE PRESIDENT HARRISON'S REQUEST RE COUNTY STREET SWEEPING PROGRAM

Director Harrison explained that he had understood that the County street-sweeping program was going to cover areas that the District covered only less often. After consulting County staff, he found that the County sweepers only swept where there was a curb. After some Board discussion and no public comment, the Board directed staff to explore the different options.

03:14:06

F. MANAGER'S REPORT

Bruce Buel, General Manager, presented the information as published in the Board letter. He added:

District Counsel and Mr. Buel met with Golden State Water Company. It appears that they want to cooperate with the "waterline intertie project". They are meeting with Boyle Engineering in that regard. The next NCSA meeting will include a preliminary assessment spread.

Draft EIR for the Waterline Intertie Project is planned to be delivered by Monday, November 17, 2008. It will be delivered to the Clearinghouse and other interested parties.

The comment period will be November 17th through January 9, 2009. Copies will be available at cost. CD's will be available at no cost.

Mr. Buel was elected to CSDA Finance Corporation Board.

The federal government may have monies available (stimulus package) for infrastructure, pipelines, etc.

03:24:20

G. COMMITTEE REPORT

1. 10/20/08 Water Conservation Committee Meeting
2. 10/29/08 Ad Hoc Blacklake Water Surcharge Committee Meeting
3. 11/3/08 Southland WWTF Upgrade Project Committee Meeting

The reports are presented as written.

There will be a Waterline Intertie Project Committee November 29, 2008, at 1:00 p.m.

03:31:44

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Vierheilig

Asked about the status of the replacement study

Mr. Buel explained that the Board accepted the study. He will provide Director Vierheilig with minutes of that meeting.

He asked about Mr. Petrick's emails and which funds are restricted or unrestricted.

When the conservation newsletter was printed on slick paper, some customers expressed that they thought it costs more than plain paper. Also, there were some typos that should have been corrected before printing.

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H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn

Planning Commission will be considering a project (8 warehouses) on Callender-Garrett. The water is to be supplied by Woodland Park Mutual Water Co. There is no restriction on what kind of businesses will be inside the warehouses. Mutual water companies have no restraint on growth. SCAC looked at the project in March & approved it but not the septic.

03:43:15

ADJOURN

President Winn adjourned the meeting at 1:44 p.m.