

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

MINUTES

JANUARY 28, 2009 AT 9AM

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

JAMES HARRISON, **PRESIDENT**
LARRY VIERHEILIG, **VICE PRESIDENT**
CLIFFORD TROTTER, **DIRECTOR**
MICHAEL WINN, **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 Harrison called the January 28, 2009, Regular Meeting of the Nipomo Community Services District Board of Directors to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all Directors were present.

00:01:45

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) MIKE NUNLEY OF AECOM ENGINEERING Update re: Waterline Intertie Project Design

Mike Nunley of AECOM gave an update on the Waterline Intertie Project Design to the Board of Directors. The Board of Directors asked questions of Mr. Nunley. Mr. Nunley agreed to provide an explanation of the updated budgeted amounts for lines 9 through 18 of his handout.

C-2) NCSD SUPERINTENDENT TINA GRIETENS Update re: Utilities Division Activities

Tina Grietens, Superintendent provided the Board of Directors with a Monthly Utility Department update. The Board of Directors asked questions and Ms. Grietens responded.

Mrs. Whitlow was not in the audience, therefore, the Board of Directors moved to Item C-5.

C-3) NCSD WATER CONSERVATION COORDINATOR CELESTE WHITLOW Update re: Water Conservation Program

Celeste Whitlow, Water Conservation Coordinator provided the Board of Directors with a Monthly Update and discussed the gardening workshops. Ms. Whitlow provided breaking news that the Smart Rebate Funding had been suspended due to State budget crisis.

C-4) PREVIEW 2009 ANNUAL CHIPPING EVENT Presentation by Celeste Whitlow re Chipping Event Schedule

Mrs. Whitlow stated the coordination for the Chipping Event has started. President Harrison stated that the Fire Safety Council will acknowledge Ms. Whitlow on January 29 for her efforts and work on last year's Chipping Event.

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

Director Vierheilig

Nipomo Native Gardens workday is Saturday, February 7th from 9 a.m. to 12:00 p.m. The Governor's budget proposes to eliminate funding for the California Conservation Corp. You can get more information at www.ccc.org.

Director Winn

A meeting is scheduled on February 9 with Supervisor Achadjian to discuss the EIR on the County's Affordable Housing Ordinance.

On January 29 at 9:00 a.m. there will be a photo op with the CCC's at the Hetrick Avenue clean-up site.

WRAC will meet on February 4 at 1:30 p.m. at the SLO County Library. Several important documents will be discussed (COSE, RMS, Laetitia Ag cluster DEIR).

On February 4, the Chamber of Commerce will be hosting a mixer from 5:00 p.m. to 7:00 p.m. at their new location.

The SCAC met on January 26 and agreed to send a letter to the Board of Supervisors in support on NCSD's position on the Affordable Housing Ordinance EIR..

Director Harrison

On February 6, there will be a Renewable Energy Workshop and the cost is \$10.00 to attend.

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Bob Blair, NCSD resident, stated that his zip code is 93420 (Arroyo Grande) and not 93444 (Nipomo). Mr. Blair stated that when Summit Station was annexed there was an agreement to provide water for all future development and that did not include paying for supplemental water. Mr. Blair then left the meeting before Staff could respond.

Bill Petrick, NCSD resident, had a question for Tina and Bruce –What preventive maintenance has been done to BL water and wastewater systems in the past six months?

Mr. Seitz, District Legal Counsel stated he is not aware of any contract by LAFCO and/or County or NCSD to deliver water at a set price to Summit Station residents. The Assessment District was formed to build the infrastructure to serve the residents. NCSD did not place land use restrictions on Summit Station.

Director Winn stated that Summit Station area is not in the Arroyo Grande city limits nor is Summit Station in the City of Arroyo Grande Sphere of Influence. Summit Station is in the NMMA and the Nipomo Mesa Water Conservation Area and receives the same benefits from the groundwater supply as all other NCSD residents.

Mr. Buel stated that NCSD is working on a Preventive Maintenance Program. Even though the maintenance is not formally documented at this time, Staff provides daily, weekly and monthly operations to both the BL water and wastewater systems.

00:53:20

D. CONSENT AGENDA .

Director Eby requested Item D-4 be pulled for separate consideration.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 1/14/09 Regular Meeting

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D. CONSENT AGENDA

- D-3) PREVIEW STRATEGIC PLAN PROCESS
- D-4) APPROVE QUARTERLY INVESTMENT REPORT
- D-5) APPROVE QUARTERLY FINANCIAL REPORT

There was no public comment on Items D-1, D-2, D-3 or D-5.

Upon motion of Director Winn and seconded by Director Vierheilg, the Board unanimously approved Consent Agenda Items D-1, D-2, D-3 and D-5. Vote 5-0.

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

Item D-4

Director Eby expressed his concerns about the safety of the Certificate of Deposit because the amount exceeds the FDIC insured amount and the collateral Rabobank may be using may not be secure.

Jon Seitz stated that the deposits of governmental funds are different than individual deposits.

Bruce Buel stated that the Investment Policy will be on the February 11 agenda.

There was no public comment.

Upon motion of Director Eby and seconded by Director Winn, the Board unanimously approved Consent Agenda D-4. Vote 5-0.

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

D. ADMINISTRATIVE ITEMS

01:02:50

- E-1) CONDUCT BLACKLAKE WATER RATE ADJUSTMENT PROTEST HEARING, DETERMINE SUFFICIENCY OF PROTEST, AND IF THERE IS NOT A MAJORITY PROTEST, SET FEBRUARY 11, 2009 TO CONSIDER RESOLUTION IMPLEMENTING THE RATE ADJUSTMENT

Bruce Buel, General Manager, reviewed the process NCSD has taken including accepting the Financial Plan, conducting the first reading of the Ordinance, setting the Protest Hearing date, and mailing out the protest notices.

Mr. Buel reported to the Board that NCSD has received 10 written protests and 1 letter of support (even though that doesn't count). Protests will be accepted until the close of the Public Hearing.

Director Trotter reviewed the list of items to be done that was included in the public notice and confirmed the commitment by NCSD to completing these items.

Director Vierheilg stated the O & M issue should be placed on the agenda of a future meeting.

Director Eby stated NCSD has tried to provide an economical solution to Blacklake residents and feels that they are getting a good deal.

The Protest Hearing was opened to the public:

Bill Petrick, NCSD resident, thanked Directors Vierheilg, Harrison and Eby for their work on this issue. Mr. Petrick read a prepared statement that included his distrust of NCSD, the reactivation of the Blacklake Advisory Committee, and increased interest in water problems.

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Director Eby asked if there was an original agreement to merge without a surcharge. Mr. Buel said that was not true.

Director Harrison stated that the merger is beneficial to the Blacklake and Town systems and is looking forward to operating one system.

The Public Hearing was closed.

Upon the motion of Director Winn and seconded by Director Vierheilg, the Board acknowledged receipt of approximately ten protests, determined that there was not a majority protest, and set February 11, 2009, as the date to consider the Resolution setting the new rates and conducting the second reading of the Ordinance to merge the water systems. Vote 5-0.

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

Director Winn thanked Blacklake Village residents Bill Nelson and Nancy Fleming for their help throughout this process.

President Harrison called for a break at 10:16 a.m.

President Harrison reconvened the meeting at 10:28 a.m.

01:16:58

E-2) RETAIN WALLACE GROUP TO PERFORM ADDITIONAL RESEARCH REGARDING BASIS OF ASSESSMENT FOR FUNDING CAPITAL PORTION OF WATERLINE INTERTIE PROJECT

Bruce Buel, General Manager, reviewed the request to retain Wallace Group to perform additional research. Kari Wagner, of Wallace Group, answered questions about the research.

Director Trotter stated he has participated in this type of work in the past and it must be presented in great detail.

Director Eby stated that this work is important because it provides legal support and community defensibility and will aid in the future update of the Urban Water Management Plan and will assist in measuring the effectiveness of the water conservation measures.

Director Vierheilg asked about Task #2 and field verification. Ms. Wagner stated they will use current aerial photos and visual verification.

Director Winn asked if the aerial photos could be put in electronic format for posting on the web site. Ms. Wagner agreed to research this issue and report back.

There was no public comment. Upon motion of Director Eby and seconded by Director Winn, the Board of Directors unanimously approved the contract with Wallace Group for Tasks 1-6 and 7 not to exceed \$66,100. Vote 5-0.

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

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01:34:23

E-3) CONSIDER ADOPTION OF RESOLUTION ESTABLISHING GUIDELINES FOR IMPLEMENTATION OF SLO COUNTY RETROFIT ORDINANCES

Bruce Buel, General Manager, presented the Resolution to establish guidelines for use of in-lieu fees. The guidelines were reviewed by the Water Conservation Committee. There are two amendments proposed to the Resolution. "In Lieu fee" should have a hyphen throughout the document. In Section 1, Administrative Fee should be re-numbered as Item A and all other items re-numbered accordingly.

Director Harrison asked if NCSO would be providing certificates of compliance for those people selling houses in the area that have been retrofitted; the answer was no. Also would NCSO by providing a receipt for the collection of in-lieu fees? The answer was yes.

There was no public comment. Upon motion of Director Winn and seconded by Director Vierheilg, the Board of Directors unanimously approved Resolution 2009-1120 as amended. Vote 5-0.

RESOLUTION 2009-1120
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ESTABLISHING GUIDELINES FOR THE USE OF IN-LIEU FEES AUTHORIZED BY COUNTY ORDINANCE 3160

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

01:47:30

E-4) REVIEW PHASE 1 REPORT ON PREVENTATIVE MAINTENANCE

Peter Sevcik, District Engineer, reviewed the need for a Preventive Maintenance Program as recommended by the Water and Sewer Master Plan Update. Mr. Sevcik introduced Mr. Dennis Delzeit, the consultant who prepared the program. Mr. Delzeit gave an overview of the program.

The Board of Directors made numerous suggestions and comments to Mr. Delzeit.

There was no public comment.

No action was taken on this item. Staff agreed to prepare an edited version of the Preventive Maintenance Program and re-circulate it to the Board of Directors.

02:16:27

E-5) CONSIDER ALLSHOUSE REQUEST FOR MODIFICATION OF EXISTING INTENT-TO-SERVE LETTER

Peter Sevcik, District Engineer, reviewed the applicants request to modify the existing Intent-to-Serve Letter and provided the Board of Directors with options. The existing Intent-to-Serve Letter was processed as a Multi-Family project and the applicant stated he had always intended it to be a subdivision with a Tract Map. Under the Water Allocation Ordinance, the change in the project would create a shortfall of 2.1 acre feet of water.

Jon Seitz, District Legal Counsel, asked Mr. Sevcik to prepare an estimated calculation of water and sewer capacity charges for requested modifications. The requested modification to single family units would cause an increase in fees of approximately \$200,000 (from approximately \$200,000 to approximately \$400,000 – depending on the timing of payment).

Michael Allshouse, owner of the project, presented a history of the project and stated he bought the project when it was proposed as an apartment complex and changed it to a subdivision, and this is what he had always intended. Mr. Allshouse agreed the water and sewer capacity charges would be significantly higher with a subdivision and agreed

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to pay the higher amount, agreed there would be 15 one-inch residential meters, one 1.5-inch irrigation meter, the existing 4-unit apartment complex will remain multi-family and must be placed on a single meter, and the entire project, including the existing apartment complex must be connected to the sewer.

Pamela Jardini, agent for Mr. Allshouse, stated that the project was always presented as a tract. Ms. Jardini relied on the County’s definition of Multi-Family and did not realize the District’s definition was different.

Mr. Anderson, NCS D resident, asked where the water is coming from to serve this project.

Anna Lise Thuse, asked how the District can consider setting more water meters and allocating more water to these projects.

Jon Seitz, District Legal Counsel, stated that this project will pay a supplemental water capacity charge to help pay for supplemental water.

Director Eby stated he would vote no because new allotments should not be allowed until the supplemental water project EIR is certified.

Upon motion of Director Winn and seconded by Director Vierheilig, the Board of Directors approved the modification to the Intent-to-Serve Letter, allocate 2.1 acre-feet of water for the project out of the 2008-09 water-allocation year and make findings that there may have been an honest mistake in the processing of the original Intent-to-Serve Letter and Mr. Allshouse agrees to pay the new water and sewer capacity charges. Vote 3-2 with Directors Eby and Trotter voting no.

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

The Board considered Closed Session next.

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. NCS D (SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES).
2. CONFERENCE WITH LEGAL COUNSEL PENDING LITIGATION GC§54956.9 MARIA VISTA VS. NCS D (CASE NO. CV 040877), MARIA VISTA VS. NCS D (CASE NO. CV 061079), AND MARIA VISTA VS. LINDA VISTA FARMS, NCS D 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. NCS D ET AL. (CASE NO. ND07-10362RR IN UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT, NORTHERN DIVISION)
4. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; NCS D VS. COUNTY OF SAN LUIS OBISPO, ET AL. (CASE NO. CV090010)

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J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

03:09:47

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:20 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 2:08 p.m.

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

03:12:26

E-6) AUTHORIZE EXECUTION OF MEMORANDUM OF UNDERSTANDING WITH SLO COUNTY RE TRANSFER OF MILLER PARK SITE TO NCSD [ADOPT RESOLUTION]

Bruce Buel, General Manager stated that the draft presented does include NCSD edits. Mr. Buel stated the MOU is fair and will allow NCSD to proceed.

Director Trotter asked about NCSD's obligation to develop the park. If NCSD fails, the property will revert back to the County.

Director Eby asked about funding for the planning. It is included in the 2008-09 budget.

Director Harrison handed out a proposed time line for the completion of the project.

Director Winn asked for clarification on points in the MOU.

It is proposed that an assessment district be formed and that 1/3 of the operating costs be funded by the assessment district and 2/3 of the operating costs be funded from NCSD's share of future property taxes.

There was no public comment. Upon motion of Director Winn and seconded by Director Trotter, the Board of Directors unanimously approved the execution of the MOU. Vote 5-0.

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

03:34:00

F. MANAGER'S REPORT

Bruce Buel, General Manager, stated the Manager's Report is as presented. He offered the Land Use Law and Planning Conference Manual to the Board for their review. He added that he sent a comment letter on the bio-solids ordinance. The hydrant and valve quotes were opened at 2:00 p.m. today and would be presented to the Board of Directors on February 11.

Director Eby stated that LAFCO re-elected Richard Roberts, not re-appointed him. There was no public comment.

03:39:18

G. COMMITTEE REPORT

1. 1/12/09 Water Conservation Committee Meeting
2. 1/12/09 Southland Upgrade Project Committee Meeting

Director Winn had one correction to the Southland Upgrade Committee Meeting minutes.

Director Vierheilig had one correction to the Water Conservation Committee Meeting minutes.

There were no public comments.

03:42:50

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby

Would like ideas on how we can measure the effectiveness of our water conservation program

Director Winn

Look at the reimbursement agreement policy at a future date

Closed Session item on the negotiations with the City of Santa Maria

Name plate for Ms. Bognuda

When are By-Laws going to be reviewed?

Unaccounted-for-water - should measure water used for flushing of water and sewer lines

Asked about scheduling a consideration of a 3-tier water rate

Rallied support for the CCC

ADJOURN

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

- **THE NEXT REGULAR BOARD MEETING IS FEB. 11, 2009**
TENTATIVELY SCHEDULED ITEMS INCLUDE:
- Sundale Well Conversion
 - Fats, Oils and Grease Control Program