

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 44 - Years of Service 1965 - 2009*

## MINUTES

**FEBRUARY 25, 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 February 25, 2009 Regular Board Meeting to order at 9:00 a.m. and led the flag salute.

#### B. ROLL CALL

At Roll Call, all Board members were present.

00:00:55

#### C. PRESENTATIONS AND PUBLIC COMMENT

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

Mike Nunley, AECOM Engineering Project Manager, reviewed the Waterline Intertie Project report, as presented in the Board packet. He added that the project is within budget and on schedule. He answered questions concerning the project. The Board thanked Mr. Nunley for the report.

##### C-2) NCSD SUPERINTENDENT TINA GRIETENS Update re: Utilities Division Activities in 2008 and January 2009

Tina Grietens, Utility Superintendent, reviewed the report presented in the Board packet. Ms. Grietens answered questions from the Board. The Board thanked Ms. Grietens for the report.

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

Celeste Whitlow, Water Conservation Coordinator, reviewed the information presented in the report to the Board. She stated that the Fire Safety Council has fully funded the chipping event this year. She answered questions from the Board. The Board thanked Ms. Whitlow for the report.

##### C-4) PREVIEW 2009-2014 STRATEGIC PLAN WORKSHOP Presentation by General Manager Bruce Buel re: Workshop

Bruce Buel, General Manager, reviewed the agenda for the Special Meeting scheduled for Friday, February 27, 2009.

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

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

Director Vierheilig

- o March 7, 2009, 9 a.m.-12 p.m. workday for the Nipomo Native Garden.

Director Eby

- o Director Eby discussed the report from NOAA predicts normal rainfall for March.
- o SCAC election nominations close March 9, 2009. Applications are available at the District office.
- o Town Hall meeting will be March 9, 6:30 p.m. in the NCSD Board room, to hear the candidates running for this year's Advisory Council seats.
- o The SCAC elections will be held March 16, 2009, in the District Board room.

Director Winn

- o 2-26-09 Planning Commission Meeting in the SLO Board of Supervisor's Chambers – will be discussing Los Osos wastewater treatment concerns but will affect policy issues for the rest of the county.
- o Mr. Buel and Director Winn will be going to Washington, DC next week to meet with representatives concerning funding for the waterline project.
- o Water Resource Advisory Committee will be meeting March 4, 1:30-3:30 p.m. at the SLO City/County Library, discussing Los Osos issues. There will be a workshop in March (date to be determined at the next WRAC meeting) at the Veterans Memorial Bldg in Pismo Beach. The WRAC will then also form a subcommittee to advise the BoS about the format of next year's RMS annual report. Director Winn recommended also that the NCSD give the County feedback.
- o On March 6<sup>th</sup>, the County's Subdivision Review Board will look at the Crosno project (located on the west side of the Mesa), and we should be there to make sure that the project design incorporates what is necessary to make sure the waste materials from their painting operation are disposed of without compromising our groundwater.

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

00:38:30

D. CONSENT AGENDA

Bruce Buel, General Manager, requested to pull Item D-4 for future consideration. Upon motion by Director Winn and seconded by Director Vierheilig, the Board unanimously agreed to continue this item to March 25, 2009. Vote 5-0.

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

Director Eby requested to pull Item D-7 for further discussion.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 2/11/08 Regular Meeting

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

D. CONSENT AGENDA (CONTINUED)

D-3) AUTHORIZE RETENTION OF WATER AUDIT FIRM

D-4) AUTHORIZE PURCHASE OF WATER CONSERVATION TRACKING SOFTWARE

D-5) APPROVE VILLAGE AT NIPOMO REIMBURSEMENT PAYMENT

**RESOLUTION NO. 2009-1122  
A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
APPROVING A REIMBURSEMENT PAYMENT TO  
VILLAGE AT NIPOMO LLC  
AND AMENDING FY 08-09 BUDGET**

D-6) AUTHORIZE LETTER OF SUPPORT FOR FEDERAL FUNDING OF SANTA MARIA BRIDGE RE-CONSTRUCTION

D-7) ADOPT RESOLUTION CONFIRMING INVESTMENT POLICY

D-8) ADOPT REIMBURSEMENT RESOLUTION FOR SOUTHLAND WWTF UPGRADE PROJECT

**RESOLUTION NO. 2009-1123  
A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
DECLARING INTENT TO BE REIMBURSED FOR DISTRICT EXPENDITURES  
FROM PROCEEDS OF TAX EXEMPT OBLIGATIONS ISSUED BY DISTRICT  
FOR THE DESIGN AND CONSTRUCTION  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT'S  
SOUTHLAND WASTEWATER TREATMENT FACILITY UPGRADE PROJECT**

Upon motion by Director Winn, seconded by Director Vierheilg, the Board unanimously approved Items D1, D2, D3, D5, D6, and D8 of the Consent Agenda, as modified in Item D-2 of the Feb. 11, 2009 Minutes. There was no public comment. Vote 5-0.

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

**D-7) ADOPT RESOLUTION CONFIRMING INVESTMENT POLICY**

Director Eby asked to have this item pulled for separate consideration. The Board discussed the proposed resolution. The Board agreed that the District could look at other possible investment options to ensure the existing funds are protected.

Lisa Bognuda, Finance Director, answered questions from the Board. There was no public comment.

Director Eby made the motion not to adopt the proposed resolution and to ask staff to come back with wording under 6-A-3 that assures us 100% security on the principal and does not prohibit us from our day-to-day operations with any bank for normal operation.

Director Trotter seconded the motion. Vote 2-3 with Directors Vierheilg, Winn and Harrison voting no.

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

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

D. CONSENT AGENDA (CONTINUED)

Upon motion by Director Winn and seconded by Director Vierheilig, the Board approved the Resolution as submitted with instruction to staff to look at the other modalities for future policy. There was no public comment. Vote 4-1 with Director Eby voting no.

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

**RESOLUTION NO. 2009-1124  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING THE YEAR 2009 DISTRICT INVESTMENT POLICY**

*The Board took a break at 10:08 a.m. and resumed the meeting at 10:23 a.m.*

*The Board considered Item E-3 next.*

E. ADMINISTRATIVE ITEMS

01:09:00

E-3) CONSIDER HOLLOWAY REQUEST FOR EXTENSION OF DEADLINE FOR COMPLETION OF WATER AND SEWER WORKS FOR SOUTH OAKGLEN SUBDIVISION

Bruce Buel, General Manager, explained that Tract 2642 is a proposed 18-lot residential subdivision on South Oakglen Avenue that is within the District's Sphere of Influence but outside of the District's current boundary. The applicant, Carl Holloway, has requested a time extension of the outside user agreement, approved February 28, 2007. Mr. Buel and Peter Sevcik, District Engineer, answered questions from the Board.

Carl Holloway, project owner, told the Board that he has spent four to five years putting the plans together and getting them through the County's process.

The following member of the public spoke:

Jesse Hill, NCSD resident, told the Board he has been working with the Holloways on this project. He stated that an agreement with the County stated that the project will not be held up because of the lack of a two-way egress for Cal Fire.

Upon motion by Director Vierheilig and seconded by Director Trotter, the Board agreed to direct staff to prepare an amendment to the outside user agreement, for Board approval at a subsequent meeting, to allow the applicant until March 15, 2011 to begin construction of the water and sewer improvements. Vote 4-1, with Director Eby voting no.

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

*Item E-2 was considered next.*

01:22:10

E-2) CONSIDER OPTIONS TO AMEND INTENT-TO-SERVE POLICY TO ALLOW FOR PHASING OF LARGE COMMERCIAL PROJECTS

Peter Sevcik, District Engineer, explained that in response to a request from developer George Newman, the Board directed staff to present possible code changes to amend the Intent-to-Serve policy to allow for phasing of large commercial projects.

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

E-2) CONSIDER OPTIONS TO AMEND INTENT-TO-SERVE POLICY TO ALLOW FOR PHASING OF LARGE COMMERCIAL PROJECTS (CONTINUED)

The Board asked questions concerning the possible code changes.

George Newman, developer and representative for Nipomo Business Park, LP, developer of Tract 2652, asked about Item 1 of the proposed code changes. He also stated that phasing of the project would be quite complicated.

The Board expressed concerns about fairness to others.

The following member of the public spoke:

Jesse Hill, NCS D resident, stated that he could not develop his project because the impact fees for residential, as well as the water and sewer fees, were too much to pencil out.

Director Trotter asked how the District can pay its bill, (development costs, etc) without fees. Mr. Hill suggested that the costs should be added to water charges in relation to how much is used. He recommended that the Board help Mr. Newman process his project.

Director Trotter stated that if developers can't or do not want to pay impact fee, growth will be slowed or even stopped, which is a fact of life. The District's primary obligation is to its existing water users.

The Board discussed some possible changes in the code. It was suggested to delete #3 but include a portion of it in #2 as "d". Also, the Board suggested defining "large commercial projects". Also, look at the time frame allowed. A rough draft ordinance will be brought back at a subsequent meeting.

*Item E-1 was considered next.*

02:12:05

E-1) SELECT AECOM TO PERFORM FINAL DESIGN OF SOUTHLAND WWTF UPGRADE PROJECT AND AUTHORIZE EXECUTION OF AGREEMENT

Bruce Buel, General Manager, reviewed the Southland Wastewater Treatment Facility Upgrade Project proposal responses.

Mike Nunley, Boyle Engineering Project Manager, answered questions from the Board concerning grit removal, solar power, etc.

Director Trotter stated that the District should continue to expedite the development of the Santa Maria Intertie and slow or even stop the research of desalination because of the high cost of development.

Upon motion by Director Winn and seconded by Director Eby, the Board agreed to the staff's recommendation to select AECOM to prepare the final design on a time-and-materials basis with a not-to-exceed expenditure limit of \$923,093, with a change in the scope proposed in the proposal to exclude grit removal from the value engineering process and that the General Manager be authorized to approve up to \$50,000 in change orders to cover unforeseen additional tasks, including the potential to bring back the agreement for approval. There was no public comment. Vote 5-0.

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

E-1) SELECT AECOM TO PERFORM FINAL DESIGN OF SOUTHLAND WWTF UPGRADE PROJECT AND AUTHORIZE EXECUTION OF AGREEMENT (CONTINUED)

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

The Board took a break at 11:46 a.m. and resumed the meeting at 11:53 a.m.

The Board considered E-4 next.

02:31:33

E-4) AUTHORIZE SUBMITTAL OF COMMENTS TO SLO COUNTY REGARDING FUNDING FOR WILLOW ROAD EXTENSION

Bruce Buel, General Manager, explained that comments concerning the financing for the Willow Road Extension Project could be sent to the SLO Board of Supervisors outlining the NCS D Board's position. Some suggestions for comments would include that the County consider using General Fund Reserves and Road Impact Fees, as well as spreading the project cost assessment equitably among the road users and potentially credit those who have contributed Capacity Charges historically.

The Board discussed the possibility of commenting when the comments are unsolicited and why this District can recommend how other people's money is spent. The community of Nipomo should not have to pay for the interchange because Road Impact Fees have been paid by residents who came to a new house in Nipomo after 1992.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously agreed to direct the General Manager to construct a comment letter to be signed by President Harrison, including the points discussed and give general feedback to the County Board of Supervisors. The letter should include that the NCS D Board has discussed the issue. There should not be any special tax on the local community to make up for the funding gap. The Board affirms the value of the project, but that the funds should not be a loan but come out of the general fund into which Nipomo residents have previously paid. There was no public comment. Vote 5-0.

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

The Board considered Closed Session next.

03:00:28

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following items to be heard 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 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)
3. 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) (INCLUSIONARY HOUSING)

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:22 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:23 p.m.

Jon Seitz, District Legal Counsel, announced that the Board heard an update on the items above and took no reportable action.

*The Board considered E-5 next.*

03:03:05

E-5) DISCUSS PROPOSED EDITS TO COUNTY FRAMEWORK FOR PLANNING AND AUTHORIZE COMMENTS

Bruce Buel, General Manager, explained that the draft County Framework for Planning proposed by SLO County Planning is scheduled for consideration by the Planning Commission on March 12<sup>th</sup> and the Board of Supervisors on March 24<sup>th</sup>. The proposed edits are intended to promote "Smart Growth" and "Strategic Planning".

The Board discussed the draft and made suggestions to the draft.

Director Trotter left the meeting at 1:37 p.m.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously agreed to direct the General Manager to send a letter to the Planning Commission summarizing the Board's concerns and District Legal Counsel's concerns, that the plan needs an environmental review. There was no public present to comment. Vote 4-0, with Director Trotter absent.

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

03:22:35

F. MANAGER'S REPORT

Bruce Buel, General Manager, stated that the Manager's Report is as submitted. He answered some questions from the Board.

03:24:53

G. COMMITTEE REPORT

Bruce Buel, General Manager, stated that the Committee Report is as submitted.

03:26:19

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn

Vision for Strategic Growth held at Cal Poly this morning, Wednesday, Feb. 25, 2009. The graduate students are working on two projects, one of which includes Nipomo. Director Winn would like staff to keep abreast of the information.

He commended staff for its handling of customers even though the Board receives an occasional hostile letter.

ADJOURN

President Harrison adjourned the meeting at 1:55 p.m.

➤ THE NEXT REGULAR BOARD MEETING IS MARCH 11, 2009  
TENTATIVELY SCHEDULED ITEMS INCLUDE:

- Reimbursement Policy Review    ○ Concepts for Shop Solar
- Concepts for Office Solar and Structural Repair

➤ THE NEXT SPECIAL BOARD MEETING IS FEBRUARY 27, 2009  
FOR THE STRATEGIC PLAN WORKSHOP