

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

MINUTES

MARCH 11, 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
Vice President Vierheilig called the March 11, 2009 Regular Board Meeting of the Nipomo Community Services District to order at 9:00 a.m. and led the flag salute.
- 00:00:57 B. ROLL CALL
At Roll Call, the following members were present: Directors Eby, Winn, Trotter, and Vierheilig. President Harrison was absent.
- 00:01:26 C. PRESENTATIONS AND PUBLIC COMMENT
- C-1) COMMANDER BRIAN HASCALL OF SLO COUNTY SHERIFF'S OFFICE
Commander Brian Hascall from the SLO County Sheriff Office South County Sub-Station presented an update concerning the Sheriff's activities on the Nipomo Mesa. February 25th there was a pursuit of a Chevy from El Campo Road to Grand Ave and U.S. 101. The suspects were seen throwing "meth" out the window of their car and were arrested for felony evasion of a police officer and being under the influence of narcotics. March 9th there was a shooting at a residence in the one-thousand block of Royal Oak Canyon Rd. He is asking for information about a large SUV in the area about 11:45 p.m. During the month of March, the Sheriff Department will be conducting compliance check on sexual offenders. There was graffiti on a school wall in Oceano. The suspect is a student at Lopez Continuation School who had the same graffiti on his notebook. March 8th, there was a pursuit east on Southland at approx 11:00 p.m. The 29-year-old suspect allegedly had narcotics in the vehicle.
- C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE
Update re: Cal Fire Activities on the Nipomo Mesa
Battalion Chief Bill Fisher of Cal Fire gave an update of the Cal Fire activities on the Nipomo Mesa. He reviewed the activity report given to the Board and public. In February 2009, Nipomo Station 20 had a total of 105 calls: 5 fires, 11 vehicle accidents, 62 medical aids and 27 other calls. Mesa Station 22 had a total of 51 calls: 4 fires, 5 vehicle accidents, 25 medical aids and 17 other calls. The chipping program for the Suey Creek area was completed the last week of February. July 8th, there will be a dedication of the newly rebuilt fire station on Pioneer Street. The Board thanked Chief Fisher for his presentation.

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- C-3) DISTRICT ENGINEER PETER SEVCIK
Update re: District Engineer Activities

Peter Sevcik, District Engineer, reviewed the information presented in the Board report outline of District Engineer activities for February 2009.

Mr. Sevcik answered questions from the Board concerning the geotechnical tests for the Kaminaka and Pasquini properties.

Bruce Buel, General Manager, added that Fugro is looking to see if the Pasquini property is feasible.

The Board thanked Mr. Sevcik for his presentation.

- C-4) DISTRICT GENERAL MANAGER BRUCE BUEL
Report on Trip to Washington, D.C., to seek Federal Funding

Bruce Buel, General Manager, described the trip to Washington, DC, with Director Winn. Director Winn added information about the trip. He stated that Congresswoman Capps seemed more responsive this year than she could be last year.

Director Eby stated that he and Director Vierheilig attended a meeting for the Dana Adobe and learned that our District needs to be lobbying with the State as well as Federal government.

Mr. Buel added that he will report on the status of stimulus funding at the April 8th meeting.

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

Director Eby

South County Advisory Committee had a Town Hall meeting Monday, March 9th, and will be holding the elections Monday, March 16, 2009.

LAFCo meeting March 19th was canceled. The next meeting will be April 16, 2009.

Water Resources Advisory Council meeting was March 4. There will be a special meeting about the Los Osos sewer on April 4th.

Director Winn

At the Board of Supervisors meeting, March 10th, the TDC ordinance was pushed along. The Inclusionary Housing Ordinance was continued to April 7th.

March 11, 2009, Director Winn will be speaking on KVEC Radio's Dave Congleton Show from 5:10 – 6:00 p.m. He will be speaking as a Nipomo resident on funding for the Willow Road Project.

Friday, March 20th, CSDA meeting at the Wallace Group in San Luis Obispo.

Monday, March 23rd - SCAC installation of new officers

Thursday, March 26th is the SLO Planning Commission meeting

Saturday, March 28th from 9-12 a.m., there will be the Nipomo Incorporation public meeting in the Monarch Room at Woodlands.

April 1, 2009, Water Resources Advisory Council. There will be a workshop the Saturday after that.

Director Vierheilig

Nipomo Olde Towne Market Place will be March 22 from 1-4 p.m.

The Central Coast Greenhouse Growers Association will have its open house April 4th.

April 26th is the ninth annual Wine & arts Festival

March 20-22 is the Santa Barbara International Orchid Show at the Earl Warren Showground.

April 3-5 is the Central Coast Orchid Show. Tickets for the Friday preview are available.

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

Director Eby asked about the March 3rd Board of Supervisors meeting considering granting the parks property to the District. Director Winn stated that the BoS considered it in Closed Session. Mr. Buel stated that he understood it would be on the Consent Agenda for March 24th.

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

James L. Statler, Supervisor of the Lifebound Leadership Program, stated that he is involved with the youth of Nipomo. He is working with the youth on the Cesar Chavez Garden. He wanted the public to know about some of the projects on which the group is working.

Ian Wallace, NCS D resident, commented about the Sundale Well electrification process. He asked about the plans for disposal of the gas engine. He thought there may be some salvage value.

Peter Sevcik, District Engineer, responded that the contract includes disposing of the engine with a credit for the salvage.

Director Trotter asked if staff could get an estimate of salvage value of the engine from the industry. Director Winn suggested there may be a conflict of interest in those who get the bid also establishing the value of the engine.

D. CONSENT AGENDA

Staff asked that Item D-3 of the Consent Agenda be pulled for separate consideration. Director Eby requested to pull Item D-5 pulled for separate consideration.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 2/25/09 Regular & 2/27/09 Special Meeting

D-4) ADOPT RESOLUTION AMENDING TRAVEL PER DIEM PROVISIONS IN PERSONNEL POLICY

**RESOLUTION NO. 2009-1125
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING THE DISTRICT PERSONNEL POLICY, SECTION 6000, TO
AMEND BUSINESS TRAVEL AND REIMBURSEMENT**

Upon motion by Director Eby and seconded by Director Winn, the Board unanimously approved Items D-1, D-2, and D-4 of the Consent Agenda.

The following members of the public spoke:

Bill Petrick, NCS D resident – stated that some hotels provide free breakfast. What happens with the breakfast portion of the per diem allotment – are you double-dipping?

Bruce Buel, General Manager and Director Winn stated that when a meal is provided, the staff member does not request payment for that meal.

Vote 4-0 with Director Harrison absent.

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

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D. CONSENT AGENDA (CONTINUED)

D-3) ADOPT RESOLUTION UPDATING 2006 WATERLINE INTERTIE PROJECT REIMBURSEMENT RESOLUTION

Bruce Buel, General Manager, explained the proposed changes to the resolution which was presented in the Board packet. The minor edits will be incorporated in the final resolution.

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously approved the resolution, as amended. There was no public comment. Vote 4-0, with Director Harrison being absent.

**RESOLUTION NO. 2009-1126
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING AND RESTATING RESOLUTION 2006-968 DECLARING THE DISTRICT'S
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
WATERLINE INTERTIE PROJECT WITH THE CITY OF SANTA MARIA**

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

D-5) ADOPT RESOLUTION APPROVING AMENDMENT TO HOLLOWAY OUTSIDE USER AGREEMENT

Director Eby explained that he could not support this resolution for several reasons, one being that the District has not yet obtained a supplemental water supply. Another reason is that extending this Intent-to-Serve letter to four years is setting a precedent.

The Board discussed that the concept was approved by a 4-1 vote at the February 25, 2009 meeting and clarified the distinction between an outside user agreement and an Intent-to-Serve letter.

The following member of the public spoke:

Carl Holloway, owner of the Tract 2642 project, stated that he thought this extension was okayed at the last meeting. He stated that if there is a problem, he would need to bring a representative to a future meeting to help him.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board adopted the resolution amending the Outside User Agreement. Vote 3-1, with Director Eby voting no and Director Harrison absent.

**RESOLUTION NO. 2009-1127
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING AMENDMENT NO. 1 TO OUTSIDE USER AGREEMENT
FOR WATER AND SEWER SERVICES TO TRACT 2642**

YES VOTES	NO VOTES	ABSENT
Directors Winn, Vierheilig and Trotter	Director Eby	Director Harrison

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E. ADMINISTRATIVE ITEMS

01:22:49

E-1) DISCUSS DRAFT BLACKLAKE AREA OVERSIGHT COMMITTEE BYLAWS, REVIEW DISTRICT RESOLUTION 96-592 AND CONSIDER OPTIONS TO FACILITATE COMMUNICATION WITH CONSTITUENTS

Bruce Buel, General Manager, reviewed that the Board had received a copy of the draft bylaws submitted by the Blacklake Management Association Board. The bylaws have several issues that could cause conflict with any individual who would serve on the proposed committee. The situation has changed considerably since the 1997 adoption of the resolution.

The Board discussed the issues. Director Trotter stated that he supports the General Manager's recommendation.

The following member of the public spoke:

Bill Petrick, NCSD resident, read a portion of the resolution and stated that the Board should get rid of the resolution entirely:

2. "The purpose of the Committee is to allow the District to obtain input from representatives of the residents and property owners of the Black lake development before action by the District on matters of concern to that area. The Committee shall be responsible for reviewing proposed additions to, changes in, extensions or deletion of services; changes in rate or charges; and other matters of concern to Black lake residents and property owners; and conveying opinions and recommendations to the District's Board and staff.

The Board discussed that the NCSD Board fulfilled its end of the resolution, but the Blacklake committee did not. An ad hoc committee could be formed to meet with the BLMA. Jon Seitz, District Legal Counsel, explained the differences between an ad hoc, a standing, and an advisory committee. The ad hoc committee does not require Brown Act public notification and the others do.

Upon motion by Director Eby and seconded by Director Winn, the Board unanimously agreed to direct staff to prepare a new resolution rescinding 96-592. Vote 4-0, with Director Harrison being absent.

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

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously agreed that when staff brings the item rescinding of Resolution 96-592 that an item be put on the agenda to explore alternatives.

The following member of the public spoke:

Bill Petrick, NCSD resident, stated that the Board should have a companion resolution to say what the Board will do in place of the resolution being rescinded that may do what he read in item 2 of the existing resolution.

Vote 4-0, with Director Harrison being absent.

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

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- 01:55:19** E-2) CONSIDER LATHROP INTENT-TO-SERVE LETTER APPLICATION FOR SEWER SERVICE TO MIXED-USE PROJECT AT DIVISION AND HAZEL

Peter Sevcik, District Engineer, explained the request for sewer service to Tract 2797, APN 092-451-048, located at the corner of Hazel Lane and Division Street.

The Board discussed the proposed Intent-to-Serve letter and made several suggestions for additions to the letter. There was no public comment. Upon motion by Director Winn and seconded by Director Trotter, the Board unanimously agreed to direct staff to issue an Intent-to-Serve letter for the project with the conditions, as outlined in the draft letter and as amended by the Board. Vote 4-0, with Director Harrison being absent.

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

- 02:09:39** E-3) REVIEW PROPOSED EDITS TO BOARD BY-LAWS, DEVELOP PROPOSAL AND SET HEARING FOR ADOPTION

Bruce Buel, General Manager, proposed the edits as presented in the Board packet. The Board discussed the By-Laws. There was no public comment.

Upon motion by Director Winn and seconded by Director Trotter, the Board unanimously agreed to set the public hearing for adoption on March 25, 2009. Vote 4-0, with Director Harrison being absent.

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

The Board took a break at 11:23 a.m. and returned at 11:35 a.m.

The Board considered Item E-5 next.

- 02:17:35** E-5) CONSIDER STRUCTURAL REPAIR AND SOLAR RETROFIT CONCEPTS FOR DISTRICT OFFICE

Peter Sevcik, District Engineer, explained that the Board had budgeted monies for structural repairs to the District office building. He also described the possibility of fitting the building with a grid-connected solar panel system to generate electricity to partially power the building. Mr. Sevcik answered questions from the Board about the solar power issues, life of the solar power system, and the payback.

The following member of the public spoke:

Bruce Holladay, NCSD resident, stated that the payback for the solar panels seems low. The Board might reconsider the project.

The Board discussed the structural repairs. Upon motion by Director Winn and seconded by Director Trotter, the Board unanimously agreed to option 2 in the Board letter.

"The existing metal roofing could be extended to cover the existing rafters completely at the north and west patios and the rafter tails could be repainted on a more frequent basis to reduce the need for more extensive repairs in the future. The estimated cost of this approach is approximately \$30,000 to extend the roof and then \$5,000 every five years to repaint the rafter tails as well as all other exterior wood members."

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E-5) CONSIDER STRUCTURAL REPAIR AND SOLAR RETROFIT CONCEPTS FOR DISTRICT OFFICE (CONTINUED)

Vote 4-0.

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

The Board discussed that the price of materials for solar power is expected to go down significantly in a year. Stimulus money may be available by next year. The Board agreed to consider solar energy next year.

The Board considered Closed Session next.

02:46:07

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. NCSD (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. NCSD 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; NCSD VS. COUNTY OF SAN LUIS OBISPO, ET AL (CASE NO. CV090010)

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 12:03 p.m.

02:47:03

L. OPEN SESSION
ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:04 p.m.
Jon Seitz, District Legal Counsel, reported the following:
The Board heard an update on the items listed above. There was no reportable action.

02:47:57

E-4) PROVIDE DIRECTION REGARDING RE-INVESTMENT OF SUPPLEMENTAL WATER PROJECT RESIDUAL COP PROCEEDS

Bruce Buel, General Manager, explained that the District has a balance of the COP proceeds in a six-month Certificate of Deposit at Rabobank. The Board had previously asked for more research that would provide FDIC insurance protection for one-hundred percent of the deposit.

Lisa Bognuda, District Finance Director, researched possibilities. Nipomo Rabobank President, Angelica Gutierrez, stated that the bank could pay 1.36% interest for six months. Another representative will be arriving in the next week to discuss more options.

There was no public present to comment. Director Trotter left the meeting at 1:22 p.m.
The Board discussed that the lowest risk available is most desirable.

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E-4) PROVIDE DIRECTION REGARDING RE-INVESTMENT OF SUPPLEMENTAL WATER PROJECT RESIDUAL COP PROCEEDS (CONTINUED)

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously agreed to authorize staff to deposit money in a CDARS program, for such length of time as they calculate as prudent, and negotiate with Rabobank to see what part they have to play in it, if any; and authorize the appropriate District representative(s) to sign. Vote 3-0 with Director Trotter and Harrison being absent.

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

03:21:33

E-6) CONSIDER ADOPTION OF "LOCK OUT" SAFETY POLICY

Bruce Buel, General Manager, explained that the State requires a "Lock-Out" policy. Peter Sevcik, District Engineer, answered questions from the Board. The staff has been using the safety methods outlined in the resolution, but the State requires a written policy.

Upon motion by Director Eby and seconded by Director Winn, the Board unanimously adopted Resolution 2009-1128. There was no public present to comment. Vote 3-0, with Directors Harrison and Trotter being absent.

RESOLUTION NO. 2009-1128
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A CONTROL OF HAZARDOUS ENERGY POLICY

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

03:34:51

E-7) CONSIDER DIRECTOR WINN'S REQUEST TO REVIEW DEVELOPER REIMBURSEMENT POLICY

Director Winn asked staff why the District does not include administrative costs in reimbursable moneys. Staff explained that the 5% administration costs referenced in Section 5.01.060 of NCSD Ordinance 2008-107 is deducted from the reimbursement amounts only from properties connecting to District facilities within the ten-year time-limit. There was no public present to comment.

The Board discussed some minor errors in the existing ordinance. Section 5.01.030(H) and Section 5.01.040 reference 5.01.030 (F) where it should reference (G). Two other minor typos needed to be corrected.

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously agreed to make minor edits in the existing ordinance before it is sent to the District Code Book editors for codifying. Vote 3-0, with Directors Harrison and Trotter being absent.

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

03:51:12

E-8) CONSIDER DIRECTOR WINN'S REQUEST TO DISCUSS GOVERNOR'S WATER SHORTAGE PROCLAMATION

Director Winn requested that this item be presented to the Board to discuss the February 27, 2009 State of Emergency Water Shortage Proclamation. The Proclamation requires any recipient of drought financial assistance to implement a water shortage contingency analysis. The portion of the proclamation that may affect NCSD is Section 18(a) "institution of mandatory water rationing and mandatory reductions in water;"...by March 30, 2009, and Section 21 which imparts "...local agencies also implement water use reduction plans for facilities within their control, including immediate water conservation efforts."

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E-8) CONSIDER DIRECTOR WINN'S REQUEST TO DISCUSS GOVERNOR'S WATER SHORTAGE PROCLAMATION (CONTINUED)

There was no public present to comment.

Director Winn pointed that along with the very interesting Whereas points, Section 7 state agencies ... "shall prioritize and streamline permitting and regulatory compliance actions for desalination, water conservation and recycling projects that provide drought relief."

Director Eby suggested that this proclamation was dictated in February before several days of rain in Northern California.

The Board agreed that the General Manager could continue tracing subsequent analysis of mitigations to determine if statewide rationing will be required.

04:01:56

F. MANAGER'S REPORT

Bruce Buel, General Manager, added to the Manager's Report as published:

The Draft FEIR for the Waterline Intertie Project cannot be published today, as expected. Hopefully, it will be distributed Monday, March 16, 2009.

RFP for preparation of the Southland WWTF Upgrade Project EIR was sent to eight consultants on February 9, 2009.

LAFCo circulated a notice of nominations for the open seat. The ballot should be provided at the April meeting for the Board to vote for a nominee.

Pre-application for stimulus package funding was submitted. Eligibility rankings should be posted on the DWR's website on April 6th.

CSDA Chapter will hold a new director orientation seminar in Templeton Saturday, March 21, 2009, from 1:00 to 4:00 p.m.

There was no public present to comment.

04:07:02

G. COMMITTEE REPORT

1. 2/23/09 Water Conservation Committee Meeting
2. 3/2/09 Finance and Audit Committee Meeting

The report is as submitted. There were no questions from the Board. There was no public present to comment.

04:09:38

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby

He asked if the three-tiered water rate adjustment consideration could be held off until after the assessment vote. Mr. Buel stated that the March 25th item will be to request to send out Requests for Proposals for a rate study.

He also asked for staff to look into securing LAIF funds.

Director Vierheilig

In Item E-4 of the February 11th meeting, a Wikipedia document retrieval tells all the allowable LAIF investments.

Director Winn

Clean Up Week notice gives the wrong message. He suggested that the notice to be changed to Clean Up Day from April 20-24. Many people seem to think they have all week to get out the trash.

ADJOURN

Vice President Vierheilig adjourned the meeting at 2:37 p.m.