

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

DRAFT MINUTES

APRIL 8, 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 its customers with reliable, quality, and cost-effective services now and in the future.

00:00:00

A. CALL TO ORDER AND FLAG SALUTE

President Harrison 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.

B. ROLL CALL

At Roll Call, all Board members were present.

C. PRESENTATIONS AND PUBLIC COMMENT

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

Commander Brian Hascall gave an update of the Sheriff's activities on the Nipomo Mesa. Within two days, there were two break-ins at the Smoker's Hut on West Tefft Street. The suspects were arrested with the stolen goods in their possession.

March 29th at 10:30 p.m. intoxicated young female found at the Oceano duck pond. One of the men from Nipomo with her was arrested. He allegedly kicked out the window of the squad car and is facing additional charges.

There was an armed robbery at the old Long's store. The owner suffered extensive injuries. A suspect has been arrested.

The driver of a white van had been reported as hanging around the Nipomo and Arroyo Grande schools and annoying children. A suspect has been arrested.

The Board thanked Commander Hascall for his report.

C-2) BATTALION CHIEF BILL FISHER OF CAL FIRE

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 March 2009, Nipomo Station #20 had a total of 121 calls: 11 fires, 31 vehicle accidents, 60 medical aids and 19 other calls.

Mesa Station #22 had a total of 65 calls: 5 fires, 4 vehicle accidents, 36 medical aids and 20 other calls.

The chipping program for the Nipomo area will be starting in April.

There were a couple of control burns that escaped. He reminded those who are allowed to do control burns to be especially careful on windy days. He also reminded the public that it is time for fuel clearance, 30-100 feet of clearance of all flammable vegetation around structures.

The Board thanked Chief Fisher for his presentation.

**Nipomo Community Services District
REGULAR MEETING
DRAFT MINUTES**

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 his activities for March 2009.

Mr. Sevcik answered questions from the Board concerning testing of the wells while pumping.

Mr. Sevcik stated that he attended a meeting of the California Water / Waste Water Network. He suggested the possibility of joining the organization.

The Board thanked Mr. Sevcik for his presentation

C-4) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest

Director Trotter

The Personnel Committee met Tuesday April 7, 2009. There will be an agenda item on the April 22 meeting concerning the item discussed.

Director Vierheilig

Saturday, April 11, 2009 – Workday at Nipomo Native Garden from 9-12. Bring gloves.

April 19, 2009 – Walking tour of the Nipomo Native Garden 1:00 p.m.

April 26, 2009 – Nipomo Wine, Flowers and Arts at Old Town Nursery. Contact the Nipomo Chamber of Commerce for information.

Director Eby

The NOAA report shows a higher than normal rainfall for early April.

The cost of silicon is dropping. The cost of solar panels is also expected drop.

SLO Land Conservancy Art Show will be held in the Octagon Barn for a \$20.00 donation.

Director Winn

Water Resources Advisor Committee (WRAC) and South County Advisory Committee (SCAC) will be looking at a General Plan Amendment to incorporate "smart growth" principles into the Framework for Planning. They have both formed sub-committees and will be preparing reports on those.

WRAC sub-committee met at NCSD on Monday, April 6th.

SLO County Board of Supervisors will be discussing Item C-3, concerning Framework for Planning and "Smart Growth" in their April 14 meeting.

WRAC Sub-Committee will be discussing Los Osos, which is important in principle to other places in the county.

Saturday, April 18, 2009 – Friends of Nipomo Library will be holding a book sale. It starts at 8:00 a.m. for members and 10:00 a.m. for the public and goes on until 3:00 p.m.

SCAC Land Use Committee will be holding an open meeting Monday, April 20, 2009, at 9:00am in the NCSD Boardroom. The public is welcome to attend.

April 21, 2009 - SLO Board of Supervisors will be looking for suggestions to revise their format for their Resource Management Survey.

Director Harrison

Nipomo Chamber of Commerce will be having Casino Night, April 18, 2009.

N.I.C.E. had a meeting with 104 people in attendance. The next meeting will be April 23rd.

The next Chamber of Commerce meeting will be April 30, 2009, with Supervisor Achadjian as the speaker.

**Nipomo Community Services District
REGULAR MEETING
DRAFT MINUTES**

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Tom Martin, Controller for the South County Sanitary Services, stated that Clean Up Week will be April 20-24. For large items, call the office. He invited members of the Board to take a tour of the recycling facilities.

D. CONSENT AGENDA

Bruce Buel, General Manager, informed the Board of two corrections needed. 1) Two minor edits in the resolution for in Item D-3. 2) In Item D-7, the Section 2.10 was added by District Counsel. Director Winn asked to have Item D-5 pulled for separate consideration. Director Harrison asked to have Item D-8 pulled for separate consideration.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of 3/25/09 Regular Special Meeting

D-3) ADOPT RESOLUTION INITIATING FY09-10 LANDSCAPE MAINTENANCE ZONE #1 ENGINEERS REPORT

RESOLUTION NO. 2009-1132
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT INITIATING PROCEEDINGS FOR ANNUAL
LEVY OF ASSESSMENTS FOR THE STREET LANDSCAPE MAINTENANCE DISTRICT
NO. 1 FOR FISCAL YEAR 2009-2010 PURSUANT TO THE PROVISIONS OF PART 2 OF
DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

D-4) SET DISCUSSION RE REGULATION OF MUTUAL WATER COMPANIES

D-6) EDIT DISTRICT MISSION STATEMENT AND VISION STATEMENT

D-7) AUTHORIZE EXECUTION OF MOU WITH SLO COUNTY RE GRANT FUNDING

Upon motion by Director Winn, and seconded by Director Eby, the Board unanimously approved Items D1, D2, D3, D4, D6, and D7 of the Consent Agenda, as revised. There was no public comment. Vote 5-0.

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

D-5) AUTHORIZE PURCHASE OF CONSERVE TRACK SOFTWARE

The Board listed some things about the proposed purchase of the software that were not answered in the Board letter. Further instructions were given to obtain more information about the purchase.

Celeste Whitlow, Water Conservation Coordinator, explained the proposed quote. She answered the Board's questions.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously agreed to have this proposal brought back to a subsequent meeting with more specific information. There was no public comment. Vote 5-0

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

**Nipomo Community Services District
REGULAR MEETING
DRAFT MINUTES**

D-8) AUTHORIZE THE OPENING OF A CERTIFICATE OF DEPOSIT ACCOUNT REGISTRY SERVICE ACCOUNT AT MISSION COMMUNITY BANK

Lisa Bognuda, District Finance Director, explained the workings of the CDARS process. She answered questions from the Board.

Upon motion by Director Eby and seconded by Director Trotter, the Board adopted Resolution 2009-1133. Vote 3-2, with Directors Winn and Harrison voting no.

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

RESOLUTION NO. 2009-1133
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING THE OPENING OF A CERTIFICATE OF DEPOSIT ACCOUNT REGISTRY SERVICE (CDARS) ACCOUNT AT MISSION COMMUNITY BANK

The Board took a break at 10:26 a.m. and returned at 10:35 a.m.

01:26:59

E. ADMINISTRATIVE ITEMS

E-1) RECEIVE WATERLINE INTERTIE PROJECT CONCEPT DESIGN AND SCHEDULE ADOPTION

Bruce Buel, General Manager, explained that the report from AECOM is to give the Board the opportunity to ask questions concerning the Waterline Intertie Project design and possibly set a date for adoption.

Mike Nunley, AECOM Engineering Project Manager, introduced Eileen Shields, Josh Reynolds and Cesar Romero, who have been working on the waterline intertie project. Eileen Shields reviewed the some of the slides presented at the meeting. Copies were provided to members of the public and a copy is on file in the District office. She answered the Board's questions.

Josh Reynolds reviewed some remaining slides. He answered the Board's questions.

Upon motion by Director Eby and seconded by Director Vierheilig, the Board unanimously agreed to set May 13, 2009, to consider adoption of the final design of the intertie project with the edits, as suggested. There was no public comment. Vote 5-0.

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

The Board went into 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. NCSO (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

**Nipomo Community Services District
REGULAR MEETING
DRAFT MINUTES**

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 comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:00 noon.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:15 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 taken.

02:52:41

E-2) RECEIVE WATERLINE INTERTIE PROJECT FINAL EIR AND DRAFT FINDINGS AND SCHEDULE CERTIFICATION [ORDER EDITS AND SET HEARING]

Bruce Buel, General Manager. Explained that comments have been received from the previously distributed copies of the Waterline Intertie Project Final EIR. A set of rough draft findings were included in the Board packet and posted on the website, as well. Further requests were made by Harold Snyder and Bill Petrick.

Doug Wood, principal of Douglas Wood and Associates, summarized the Final EIR and discussed the process for certification, according to CEQA guidelines.

Director Eby asked if AECOM's naming of the construction phases might change the face of the EIR.

Mr. Wood explained that as long as the over-all impacts of the project have not changed, the EIR is valid as written.

The Board discussed what could be included in the report.

Director Winn suggested that the word "over-draft" be replaced with the word "over-pumped" where appropriate, since the court ruled there is no basin-wide overdraft.

The following members of the public spoke:

Bill Petrick, NCSD resident – stated that he felt the responses to his comments were unresponsive and dismissive. The EIR needs to look at realistic data of water delivery and what is the impact on reliability and quality.

John Snyder, Nipomo resident – If NCSD won the lawsuit, where are NCSD's water rights?

Mr. Wood responded to the public comments.

The data in the EIR relate to water supply and quality

Director Eby stated that an EIR is not required or expected to justify a project.

Upon motion by Director Vierheilg and seconded by Director Winn, the Board agreed to set April 22, 2009, to consider certification of the FEIR. Vote 5-0.

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

MINUTES SUBJECT TO BOARD APPROVAL

Nipomo Community Services District
REGULAR MEETING
DRAFT MINUTES

The Board considered E-4 next.

03:37:11

E-4) REVIEW STATE AND NIPOMO DROUGHT STATUS AND DISCUSS RESPONSE PLAN

Bruce Buel, General Manager, explained that the California Department of Water Resources has not yet released its findings to evaluate the statewide drought status. Thus far in Water Year 2008-09, the Nipomo Mesa has received approximately 8.4 inches of rain compared to the mean annual precipitation of 16.7 inches.

Director Trotter asked what other cities and communities are doing.

Mr. Buel stated that San Luis Obispo has an odd/even watering scheme. Other entities in the county have started restricting water use.

Director Winn suggested reconvening the water conservation sub-committee

The Board discussed:

- o What can the District do that can alleviate the problem?
- o Keep supplying at a lesser level.
- o What are others on the Mesa doing to conserve water?
- o Implement a three-tiered commodityrate system.
- o District conservation will only affect 30% of the people.

There was no public comment.

The Board considered E-8 next.

03:54:00

E-8) AUTHORIZE SUBMITTAL OF COMMENTS TO SLO COUNTY RE: STRATEGIC GROWTH AMENDMENTS

Bruce Buel, General Manager, distributed copies of notes titled "Some Concerns about the GPA amending the Framework for Planning to Incorporated Smart Growth Principles (Comments keyed to agenda item C-3 on the Board of Supervisors meeting of March 24, 2009)" Director Winn explained some of the changes proposed by the SLO County Board of Supervisors.

The Board discussed the proposed amendments and agreed with Director Winn's comments.

Director Trotter left the meeting at 2:26 p.m.

Upon motion by Director Vierheilig and seconded by Director Winn, the Board directed Director Winn to present his comments to the SLO Board of Supervisors at its next meeting. There was no public comment. Vote 4-0, with Director Trotter being absent.

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

The Board considered E-3 next.

04:10:32

E-3) REVIEW ACTION BY SLO COUNTY BOARD OF SUPERVISORS TO APPROVE MILLER PARK MOU AND DISCUSS NEXT STEPS

Bruce Buel, General Manager, explained that on March 24, 2009, the SLO County Board of Supervisors adopted the Memorandum of Understanding between the County of San Luis Obispo and the Nipomo Community Services District regarding the transfer of ownership in County-owned real property. NCSD will be responsible for dissolving the old water well easement and for recording a new easement for the Tefft Street Lift Station, for preparing a design for the park, for arranging for long-term funding for park operations and securing LAFCO activation of NCSD's latent parks power.

Nipomo Community Services District
REGULAR MEETING
DRAFT MINUTES

E-3) REVIEW ACTION BY SLO COUNTY BOARD OF SUPERVISORS TO APPROVE MILLER PARK MOU AND DISCUSS NEXT STEPS (CONTINUED)

The following member of the public spoke:

Ed Kister, NCSD resident, asked what could cost almost a million dollars.

Mr. Buel stated that the preliminary design has been posted in the Board packet. A copy of the item is available on the back table.

The Board discussed that the work must be completed with prevailing wages, which drives the cost upward.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board directed staff to continue with the process and set May 27, 2009, as the date to discuss the Draft Financial Plan, initiation of the formation of a zone of benefit, application to LAFCO for activation of parks authority.

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

The Board took a break at 2:49 p.m. and returned at 2:58 p.m.

04:

E-5) REVIEW RESPONSES TO REQUEST FOR PROPOSALS FOR PREPARATION OF SOUTHLAND WWTF UPGRADE EIR AND AUTHORIZE EXECUTION OF AGREEMENT

Bruce Buel, General Manager, reported that staff mailed out an RFP to different constituents. Three firms submitted proposals for preparation of an environmental impact report for the Southland Wastewater Treatment Facility Upgrade project. Staff ranked Doug Wood's proposal the highest of the three.

When asked why CEQA required an EIR for replacing an existing sewer line, Jon Seitz, District Legal Counsel, stated it is because of the dramatic increase in the capacity of the line.

Director Winn urged staff to include in future RFP performance criteria to eliminate companies with a record of poor quality work.

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously agreed to select Douglas Wood and Associates, Inc., to perform the requested services and authorized the General Manager to execute a services agreement on a time-and-materials basis with a not-to-exceed expenditure limit of \$85,560. There was no public comment. Vote 4-0, with Director Trotter being absent for the vote.

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

Mr. Wood thanked the Board.

Nipomo Community Services District
REGULAR MEETING
DRAFT MINUTES

04:43:42

E-6) INTRODUCE, EDIT & READ BY TITLE ORDINANCE PROVIDING FOR PHASING OF CAPACITY CHARGE PAYMENTS FOR LARGE COMMERCIAL PROJECTS

Peter Sevcik, District Engineer, explained that staff presented possible code changes for an ordinance to allow phasing payment of fees for large commercial projects.

The Board had some minor edits. There was no public comment.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board unanimously agreed to introduce the proposed ordinance and have the ordinance read by title only. Vote 4-0, with Director Trotter being absent for the vote.

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

Jon Seitz, District Legal Counsel, read the proposed ordinance by title only.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board unanimously agreed to set the second reading for April 22, 2009. Vote 4-0, with Director Trotter being absent for the vote.

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

04:55:52

E-7) AMEND AND RESTATE RESOLUTION 96-592 TO FACILITATE COMMUNICATIONS WITH CONSTITUENTS [ADOPT RESOLUTION]

Bruce Buel, General Manager, explained that the Board directed staff to propose one or more mechanisms for improved communications with the Blacklake area. A resolution was crafted, forming a Blacklake Communications Committee. The Board discussed minor edits to the proposed resolution.

The following member of the public spoke:

Bill Petrick, BLMA President – stated that no one at Blacklake was called to inform them of this meeting. He asked to be given a heads up on item of concern to the Blacklake residents.

General Manager Buel stated that notice had been e-mailed.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board unanimously adopted Resolution 2009-1134, as amended. Vote 4-0, with Director Trotter being absent for the vote.

**RESOLUTION NO. 2009-1134
RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT PROVIDING FOR
COMMUNICATIONS BETWEEN THE DISTRICT AND BLACKLAKE CONSTITUENTS**

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

05:17:15

F. MANAGER'S REPORT

Bruce Buel, General Manager, stated that the Manager's Report is as submitted with a few additions.

Congresswoman Lois Capps has honored the District's two million dollar request and has ranked us first in her appropriations requests.

District lobbyist Greg Burns will visit NCSD at the next meeting.

Economic stimulus money requests have been overwhelming. The rankings were supposed to be released but have been postponed until April 20th.

05:21:57

G. COMMITTEE REPORT**1. 3/23/09 SWP Committee Meeting**

The Committee Report is as submitted.

There was no public comment.

05:22:17

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTSDirector Vierheilig

Would like to get an update of the Investment Policy delivered.

Design for the Willow Road extension interchange design must be completed by September.

Peter Sevcik, District Engineer, stated that the District is working with Cannon on design. The Willow Road funds must be committed by September 2010.

Director Eby

Graffiti powers – how can NCSD adopt such powers and be self-funded in concurrence with park powers?

Director Winn

Well-testing protocols

Tour of Solid Waste Facility

Volume 2 Pipeline – would like a CD of SAIC Technical memos & AECOM Technical Memos

Circulate the "Short List" of sources and standards for government – laws, SBs and ABs.

Were water and sewer connections made when the culvert was built across Thompson Avenue? Staff responded that they were not.

Director Harrison

Would like to plan a tour of the solid waste facility, as suggested by Mr. Tom Martin.

ADJOURN

President Harrison adjourned the meeting at 4:11 p.m.

➤ THE NEXT REGULAR BOARD MEETING IS APRIL 22, 2009**TENTATIVELY SCHEDULED ITEMS INCLUDE:**

- Discuss Basis of Assessment for WIP Funding
- Certify WIP FEIR