

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

D2

MINUTES

APRIL 22, 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 April 22, 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) NCSD SUPERINTENDENT TINA GRIETENS
Update re: Utilities Division Activities in February 2009
Tina Grietens, Utility Superintendent, reviewed the information presented in the Board report. Ms. Grietens answered questions from the Board.
- C-2) NCSD WATER CONSERVATION COORDINATOR CELESTE WHITLOW
Update re: Water Conservation Program and Annual Chipping Event
Celeste Whitlow, Water Conservation Coordinator reviewed the information presented in the Board report. Ms. Whitlow answered questions from the Board.
- C-3) GREG BURNS RE FEDERAL FUNDING OPPORTUNITIES
Overview of Federal Funding Possibilities for Waterline Intertie Project
Mr. Burns, of the Washington DC firm of Van Scyoc Associations, reported that Congresswoman Capps has made an Appropriations Request for our project and it is published on her website. NCSD has been given top priority for the type of funding we are seeking. Mr. Burns stated NCSD may know the status of the request this summer and, if approved, see the funds in the bank next winter or spring.
- C-4) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest
- Director Vierheilig
April 26, 2009 – CALFIRE Fundraising BBQ at Vons.
April 26, 2009 – Wine, Flower and Arts Festival at Old Town Nursery.
May 2, 2009 – Nipomo Native Gardens workday.
- Director Eby
LAFCO presented its budget and includes an overall 1% increase.
May 17, 2009 – Dana Adobe concert featuring Dave Stamey. Director Eby has tickets.

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C-4) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST (CONT)

Director Winn

April 23, 2009 – NMMA Technical Group meeting at 10:00 a.m.
April 24, 2009 – "Planning 101" presented by SLO County at County Library.
April 27, 2009 – SCAC Meeting: 6:30 p.m. @ NCSO
April 28, 2009 – SLO Board of Supervisors to approve "Framework for Planning" GPA.
April 30, 2009 – Chamber of Commerce Luncheon featuring guest speaker Supervisor Achadjian.
May 1, 2009 – DWR State Water Seminar in SLO.
May 6, 2009 – WRAC: 1:30 p.m. at SLO County Library.
The Board of Supervisors voted 3-2 to initiate the formation of a county-wide vector control district and would like this topic agendized for Board endorsement or not.

Director Harrison

May 4-7, 2009 – Director Harrison will be in Sacramento at Legislative Days.
May 9, 2009 – Rotary Golf Tournament.

00:00:00
recording
started over

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of 4/8/08 Regular Meeting

D-4) ADOPT IDENTITY THEFT PREVENTION PROGRAM

**RESOLUTION NO. 2009-1135
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING AND ADOPTING AN IDENTITY THEFT PREVENTION PROGRAM (ITPP)**

Bruce Buel, General Manager, informed the Board of an addition to Page 2 of Item D-4. Director Harrison asked to have item D-3 pulled for separate consideration. There was no public comment.

Upon motion of Director Winn and seconded by Director Vierheilig, the Board unanimously approved items D-1, D-2 and D-4 as amended. Vote 5-0

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

D-3) AMEND INSPECTOR/PREVENTATIVE MAINTENANCE SUPERVISOR JOB DESCRIPTION

**RESOLUTION NO. 2009-1136
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING THE DISTRICT PERSONNEL POLICY TO
REVISE INSPECTOR/PREVENTIVE MAINTENANCE SUPERVISOR JOB DESCRIPTION**

The Board of Directors discussed the certification requirements. There was no public comment.

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D-3) AMEND INSPECTOR/PREVENTATIVE MAINTENANCE SUPERVISOR JOB DESCRIPTION (CONT)

Upon motion of Director Winn and seconded by Director Eby, the Board unanimously approved items D-3. Vote 5-0

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

The Board took a break at 9:56 a.m. and returned at 10:06 a.m.

00:00:00

E. ADMINISTRATIVE ITEMS

E-1) CERTIFY NCSD WATERLINE INTERTIE PROJECT FINAL ENVIRONMENTAL IMPACT REPORT

Bruce Buel, General Manager, handed out a revised Resolution with two additions. In addition, Mr. Buel stated that additional responses to Mr. Harold Snyder are included in the Staff Report.

Director Eby asked where the findings were that are referenced in the Resolution. District Legal Counsel, Jon Seitz, stated they can be found in Agenda Item E-2 of the April 8, 2009, Board Meeting packet. Mr. Seitz stated that the Board is being asked today to certify the report. This does not mean that the Board is approving the project. Under CEQA, the Board is asked to make three findings: 1) The document is complete, 2) the EIR is presented to the decision makers, and 3) the document is approved using independent judgment and analysis.

Doug Wood, CEQA Consultant, stated the revised set of comments has been submitted and are integrated into the final findings. The process is to certify the FEIR today and adopt the Resolution. On May 13, 2009, the Project and the Findings of Fact and Statement of Overriding Considerations and Mitigation Program will be presented to the Board of Directors.

Director Eby asked that additional wording be added to the Resolution referencing the Findings of Fact and Statement of Overriding Considerations "as considered by the Board of Directors on April 8, 2009" be included.

The following member of the public spoke:

Jennifer Dawes, NCSD resident and Vice President of Surfrider Foundation asked why we are going to tap into State water when Wtate water is going away? Is this a good expenditure? She also stated that we should look forward to water reclamation projects.

In response to the public, Mr. Seitz, stated that the NCSD waterline project proposal is to connect to the City of Santa Maria's distribution system and not the State Water Project. The City of Santa Maria will deliver the same water to NCSD as it delivers to its own customers. Mr. Buel stated that the City of Santa Maria will deliver groundwater to NCSD from the Santa Maria basin, State water and other sources they develop, NCSD currently recycles 100% of its treated wastewater, NCSD has an active water conservation program, and we are currently pumping more than is being recharged; therefore, this project will reduce NCSD pumping from the groundwater basin.

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E-1) CERTIFY NCS D WATERLINE INTERTIE PROJECT FINAL ENVIRONMENTAL IMPACT REPORT (CONT)

Upon motion of Director Eby and seconded by Director Winn, the Board of Directors unanimously approved Resolution 2009-1137 as amended. Vote 5-0

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

**RESOLUTION NO. 2009-1137
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
CERTIFYING THE NCS D WATERLINE INTERTIE PROJECT FINAL ENVIRONMENTAL IMPACT REPORT**

00:31:22

E-2) DISCUSS BASIS OF ASSESSMENT, CREATION OF JPA WITH SLO COUNTY, AGREEMENTS WITH MESA PURVEYORS, AND EXECUTION OF AGREEMENT FOR PREPARATION OF ENGINEER'S REPORT FOR WATERLINE INTERTIE PROJECT CAPITAL FUNDING

Bruce Buel, General Manager, reviewed the Staff Report and asked the Board of Directors to consider each of the 5 recommendations separately.

1. Provide feedback on the Memorandum in general and Table 1 in particular
Director Winn suggested the word "zoning" be replaced with "category" and asked about Open Space designations in cluster developments. Kari Wagner, of The Wallace Group, stated Open Space parcels are included on the table in the Special Cases section and each will have to be looked at individually.

The following members of the public spoke::

Bill Nelson, NCS D resident, stated some roadways in Blacklake include irrigated medians, on County land but watered by Blacklake Village.

2. Provide feedback on the differentiation between developed properties and under-developed/undeveloped properties

The concept is that developed properties should pay less than under-developed or undeveloped properties. On May 20, the Wallace Group will provide an analysis on underdeveloped properties. There was no public comment.

Recommendations #3 and #4 were considered together.

3. Direct Staff to secure written agreements from the three other purveyors to pay for their share of the cost of implementing the Wallace Group Proposal.

4. Direct Staff to get feedback from SLO County regarding their willingness to form the proposed JPA.

The proposal includes Golden State Water Company paying \$40,808, Rural Water Company paying \$28,440 and Woodlands paying \$37,601 for their share of the Assessment Engineer's Report. NCS D's share is \$40,751. There is a meeting scheduled with the purveyors on Thursday, and NCS D must receive a commitment in writing from all parties prior to proceeding. Director Eby stated that the assessment district goes beyond the NCS D boundaries and customers of the other purveyors will vote on the assessment district.

The JPA is necessary to allow the County to proceed with the formation of the assessment district to include NCS D boundaries and the boundaries of the other water purveyors.

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E-2) DISCUSS BASIS OF ASSESSMENT, CREATION OF JPA WITH SLO COUNTY, AGREEMENTS WITH MESA PURVEYORS, AND EXECUTION OF AGREEMENT FOR PREPARATION OF ENGINEER'S REPORT FOR WATERLINE INTERTIE PROJECT CAPITAL FUNDING (CONT)

The Board of Directors did not have any objection to these recommendations. There was no public comment.

5. Schedule authorization to execute an agreement with the Wallace Group to perform the work set forth in their attached proposal once #3 and #4 are completed.

Rob Saperstein, legal counsel for Golden State Water Company, had to leave before this item and asked Jon Seitz, District Legal Counsel, to speak on his behalf:

- He is Golden State Water Company's attorney and can't speak for all of management
- He appreciates all of the work NCS D has done on this issue
- GSWC intends to participate; however, PUC issues must be resolved
- GSWC supports the assessment district, but PUC issues must be resolved

There was no other public comment.

Upon motion by Director Eby and seconded by Director Trotter, the Board of Directors unanimously directed Staff to proceed with recommendation #5 once recommendations #3 and #4 are accomplished. Vote 5-0.

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

The Board considered E-6 next.

E-6) RECEIVE RESIGNATION OF DIRECTOR CLIFF TROTTER, THANK DIRECTOR TROTTER FOR HIS SERVICE, REVISE COMMITTEE ASSIGNMENTS AND ADOPT PROCESS TO SELECT REPLACEMENT

The Board of Directors received the resignation of Director Cliff Trotter effective 4:00 p.m. on Saturday, April 25, 2009. President Harrison presented Director Trotter with a plaque and thanked him for his service to NCS D. Carol Trotter stood to next to Director Trotter as he received his plaque. Director Trotter thanked everyone, and pictures were taken.

Bruce Buel, General Manager, recommended the Personnel Committee and Finance and Audit Committee be merged and the members of the Finance and Audit Committee remain as members. Mr. Buel recommended the Supplemental Water and Southland WWTF Committee be temporarily combined into one committee called the Infrastructure Committee. This would be for approximately three months. There was no public comment.

Upon motion of Director Eby and seconded by Director Winn, the Board of Directors unanimously agreed to combine the committees. Vote 5-0

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

President Harrison nominated Director Eby as the Chairman and Director Winn as the Member to the Infrastructure Committee. There was no public comment.

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E-6) RECEIVE RESIGNATION OF DIRECTOR CLIFF TROTTER, THANK DIRECTOR TROTTER FOR HIS SERVICE, REVISE COMMITTEE ASSIGNMENTS AND ADOPT PROCESS TO SELECT REPLACEMENT (CONT)

Upon motion of Director Eby and seconded by Director Winn, the Board of Directors unanimously agreed to close the nominations for the Infrastructure Committee. Vote 5-0

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

Bruce Buel, General Manager, suggested the Board approve the following schedule to fill the vacant director seat:

- May 29, 2009, the nominations to fill the vacant seat be closed
- June 3, 2009, Special Meeting be held for interviews
- June 10, 2009, select a new director.

There was no public comment.

Upon motion of Director Eby and seconded by Director Winn, the Board of Directors unanimously agreed to the above schedule. Vote 5-0

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

The Board went into Closed Session next.

01:49:29

I. CLOSED SESSION ANNOUNCEMENTS
J.

Jon Seitz, District Legal Counsel, announced the following to be considered in Closed Session:

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL PENDING LITIGATION GC§54956.9 SMVWCD VS. NCSO (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).
2. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; MARIA VISTA ESTATES VS. NCSO 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; NCSO VS. COUNTY OF SAN LUIS OBISPO, ET AL (CASE NO. CV090010)
4. INTIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956 (ONE CASE)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

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K. ADJOURN TO CLOSED SESSION

President Harrison adjourned to Closed Session at 11:55 a.m.

00:00:00

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

Director Trotter left at 12:51 p.m.

The Board came back into Open Session at 1:00 p.m.

Jon Seitz, District Legal Counsel reported the following:

The Board heard an update on the items 1,2 and 3 listed above. Item 4 was not discussed. There was no reportable action taken.

E-3) ADOPT ORDINANCE PROVIDING FOR PHASING OF CAPACITY CHARGE PAYMENTS FOR LARGE COMMERCIAL PROJECTS

Bruce Buel, General Manager, presented the Ordinance for the second reading. There was no public comment.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board adopted Ordinance 2009-112. Vote 4-0.

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

**ORDINANCE NO. 2009-112
AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 OF THE NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH NEW PROCEDURES FOR PAYMENT OF DISTRICT FEES FOR CONNECTION FOR
COMMERCIAL PROJECTS DEVELOPED ON TWO OR MORE COMMERCIAL ZONED PARCELS**

E-4) DISCUSS EDUCATIONAL TOUR OF COLD CANYON LANDFILL AND RECYCLING FACILITY

The Board of Directors agreed to meet on Monday, May 11, at 10:00 a.m. for the tour and agreed to rent a van. There was no public comment.

Upon motion of Director Eby and seconded by Director Winn, the Board of Directors unanimously agreed to the above. Vote 4-0

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

E-5) CONSIDER DIRECTOR EBY'S REQUEST TO SEEK ACTIVATION OF GRAFFITI ABATEMENT POWERS

Bruce Buel, General Manager, presented Director Eby's request to seek activation of graffiti abatement powers at the same time NCSD seeks parks powers. A financial plan to fund this program would have to be presented to LAFCO. The Board of Directors would like to find out more about the City of Grover Beach's program that is funded with \$2,000 annually. There was no public comment.

Upon motion of Director Eby and seconded by Director Harrison, the Board directed the General Manager to use no more than one hour of his time and prepare a plan (not detailed). Vote 3-1.

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E-5) CONSIDER DIRECTOR EBY'S REQUEST TO SEEK ACTIVATION OF GRAFFITI ABATEMENT POWERS (CONT)

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

F. MANAGER'S REPORT

Bruce Buel, General Manager, stated that the Manager's Report is as submitted, with the addition that a notice from the Regional Water Control Board has been received stating they will review the basin plan on July 10. There was no public comment.

G. COMMITTEE REPORT

1. April 7, 2009 Personnel Committee Meeting
2. April 13, 2009 Finance and Audit Committee Meeting

The Committee Report is as submitted. There was no public comment. The Water Conservation Committee will meet on May 4, 2009 at 9:00 a.m. The Infrastructure Committee will meet on May 18, 2009 at 2:00 p.m.

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn

Would like to agendize a consideration of the proposed county-wide vector control assessment district.

ADJOURN

President Harrison adjourned the meeting at 1:38 p.m.