

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

MINUTES

JUNE 10, 2009 AT 9AM

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

JAMES HARRISON, **PRESIDENT**
LARRY VIERHEILIG, **VICE PRESIDENT**
MICHAEL WINN, **DIRECTOR**
ED EBY, **DIRECTOR**
BILL NELSON, **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 June 10, 2009 regular Meeting of the Board of Directors of the Nipomo Community Services District to order at 9:00 a.m. and led the flag salute.

00:01:00

B-1 ROLL CALL

At Roll Call, the following directors were present: Eby, Winn, Vierheilig and Harrison

B-2 SELECTION OF DIRECTOR TO FILL SEAT VACATED BY CLIFF TROTTER

Bruce Buel, General Manager, explained that there were three residents who submitted applications to fill the remaining portion of Cliff Trotter's term. One applicant withdrew. The Board cast written votes for the candidates. The Board Secretary read all the votes. All directors voted for Bill Nelson.

B-3 SEATING OF NEW DIRECTOR

Bruce Buel, General Manager, read the Oath of Office and Bill Nelson repeated the Oath. Mr. Nelson took the directors seat.

The following member of the public spoke:

Cliff Trotter, NCS D resident and former director, stated that the first time Mr. Nelson gave that oath was when he graduated from West Point in 1944. Also, he commended the Board for appointing Mr. Nelson to the Board.

00:08:55

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) COMMANDER BRIAN HASKALL OF SLO COUNTY SHERIFF'S OFFICE Update re: Sheriff's Activities on the Nipomo Mesa

Commander Brian Haskall reported to the Board and public the following:
June 2, 2009, at 10:30 a.m. a suspect was impersonating a police officer for a traffic stop. He asked for the driver's wallet; then he drove off with the wallet.
Memorial Day Weekend – there were six DUI arrests.
Two vehicles were keyed – one in Oceano and one on Price St. in Nipomo
There was a vehicle burglary with smashed windows.
The there an attempted break-in at the Food Bank.
A financial scam was attempted by mail to a Beverly Drive resident.
Cmdr. Haskall answered questions from the Board concerning graffiti abatement from private property. He suggested that the District coordinate with the Sheriff's Dept. if NCS D is considering taking graffiti abatement powers.

The Board thanked Cmdr. Haskall for his presentation.

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- 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 stated that he spoke to Marie Cowen from the County, who handles code enforcement, about the old recreation center. She has been working with the property owners. The building is not valuable as a fire training site because it has been vented from the previous fires in it.

He gave an update of the Cal Fire activities on the Nipomo Mesa and reviewed the activity report given to the Board and public.

In May 2009, Nipomo Station #20 had a total of 103 calls: 13 fires, 14 vehicle accidents, 53 medical aids and 23 other calls.

Mesa Station #22 had a total of 37 calls: 1 fire, 3 vehicle accidents, 23 medical aids and 10 other calls.

He included an invitation to attend a Dedication Ceremony for Nipomo Fire Station at 450 Pioneer Street on Wednesday, July 8, 2009, at 12:00 p.m.

The Board thanked Chief Fisher for his presentation.

- C-3) BRAD NEWTON OF SAIC
Presentation re Spring 2009 Nipomo Mesa Groundwater Status and Trends

Dr. Brad Newton of Science Applications International Corporation (SAIC) gave a power-point presentation referring to the Spring 2009 Nipomo Mesa Groundwater status and trends.

The following member of the public spoke:

Bill Petrick, NCSD resident – suggested that NCSD stop paying for duplicate reports and to wait for the NMMA Technical Group to complete their studies.

Jon Seitz, District Legal Counsel, read Bill Petrick's letter. The Technical Group has not determined that the SAIC report is unreliable. He noted that a similar trend line is derived when using other data and is noted in other reports.

Director Eby stated that he had not heard evidence that one report is better than another. Director Winn stated that to stop SAIC now because the Technical Group may have better information in the future would be speculative.

Director Harrison agreed that the SAIC report gives the District a good assessment of the trend.

Dr. Newton stated that the Technical Group has agreed not to discuss their meeting information until reports are approved by the court.

- C-4) NCSD DISTRICT ENGINEER PETER SEVCIK
Update re: May 2009 Engineer Activities

Peter Sevcik, District Engineer, reviewed the report presented in the Board letter. He answered questions from the Board. There was no public comment.

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

Director Winn

WRAC meeting Wednesday, June 3, included a Fugro West peer review of the Cleath water studies done for the proposed Laetitia ag cluster subdivision.

Paso Robles Groundwater Basin Resource Capacity Study - has been suggested they use same model as NCSD.

June 4 - was the annual SLO Coast and Ocean Regional Roundtable put on by ECO.

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

Director Winn (CONTINUED)

SLO and SLO Science and Eco System Alliance looking at how things that occur on land affect the ocean.

Board of Supervisors meeting discussed Ag cluster subdivisions and what to do with antiquated subdivisions.

6-10-09 at 6:30 p.m. Santa Maria Management Area Draft Annual Report at the Santa Barbara County Building on Betteravia Rd.

6-11-09 Planning Commission will discuss the Los Osos WWTF.

6-11-09 Energy Town-hall Meeting in Grover Beach.

6-15-09 Land Use Sub-committee of the South County Advisory Committee (SCAC)

6-19-09 County Funding meeting with DWR in Los Angeles.

6-22-09 Monthly SCAC meeting at NCSD.

6-25-09 Planning Commission on Open Space Element.

6-26-09 CEQA seminar at the Paso Robles Library.

7-1-09 WRAC meeting will include RCS for Paso Robles Groundwater Basin.

Director Eby

At the WRAC meeting, J. Lohr Winery gave a presentation on their water use. Mr. Lohr noted that a winery annually uses 2,000 acre-feet of water on 2,000 acres of land to grow grapes for 600,000 cases of wine and uses 5 AF water to process the harvested grapes into wine.

He received a mailer for a tune-up of sprinkler systems and moisture-sensor systems.

Celeste Whitlow, Water Conservation Coordinator, asked Dir. Eby to discuss this later. She answered questions from the Board.

Director Vierheilig

6-17-09 Water Conservation Committee.

6-19-09 Central Coast Greenhouse Growers Assoc. will meet at the Edwards Barn.

6-20-09 Pete Jenny retirement celebration.

Director Harrison

Will be coordinating rides to the two meetings today.

- C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

The Board took a break at 10:41 a.m. and returned at 10:51 a.m.

01:39:08

D. CONSENT AGENDA

- D-1) APPROVE WARRANTS

- D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 5/27/09 Regular and 6/3/09 Special Meeting

- D-3) AUTHORIZE EXECUTION OF AGREEMENT WITH MGE UNDERGROUND TO PERFORM POTHOLING SERVICES FOR WATERLINE INTERTIE PROJECT

President Harrison asked to pull Item D-3.

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D. CONSENT AGENDA (CONTINUED)

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously approved Items D-1 and D-2 of the Consent Agenda. There was no public comment. Vote 5-0.

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

D-3

President Harrison asked questions about the number of potholes planned for the location of potential utility conflicts in several areas of the proposed Waterline Intertie Project. Director Winn asked for a composite map of the site, showing where the parcels are that the County is considering giving to Santa Barbara Flood Control District.

Peter Sevcik, District Engineer, answered the questions from the Board.

There was no public comment.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously agreed to award the quote for potholing services for the Waterline Intertie Project to MGE for a total cost of \$24,725. Vote 5-0.

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

01:51:44

E. ADMINISTRATIVE ITEMS

01:51:44

E-1) SCOPING HEARING: RECEIVE FEEDBACK ON THE SOUTHLAND WASTEWATER TREATMENT FACILITY UPGRADE PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT

Director Vierheilg recused himself from this item. He lives near the perimeter of one of the proposed sites to be discussed.

Bruce Buel, General Manager, explained that part of the process for preparing a Draft EIR is to hold a Scoping Hearing and to provide an opportunity for trustee agencies, responsible agencies and interested parties to comment on the scope of work.

President Harrison opened the Public Hearing at 10:51 a.m. for comments on the Southland Wastewater Treatment Facility Upgrade Project Draft EIR.

Douglas Wood, Douglas Wood & Associates (the firm that prepared the Draft EIR) stated that the process allows public input as to what should be addressed in the Draft EIR. The comments will be summarized and included in the Draft EIR. The comments are not to be on the project itself but on the project objective. That process will come later.

Director Winn stated that at first he did not favor injection because it was presumed to use a great deal of energy. He has since learned that it usually does not. A higher level of treatment is required.

Jon Seitz, District Legal Counsel, explained that the water to be injected would have to be cleaned before it was injected.

There was no public comment.

President Harrison closed the Public Hearing at 11:17 a.m.

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- E-1) SCOPING HEARING: RECEIVE FEEDBACK ON THE SOUTHLAND WASTEWATER TREATMENT FACILITY UPGRADE PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT (CONTINUED)

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously agreed to direct Douglas Wood and Associates to evaluate feedback for inclusion of the scope of work for the project. Vote 4-0., with Director Vierheilig being absent for the vote.

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

Director Vierheilig returned to the Boardroom.

02:05:14

- E-2) AUTHORIZE EXECUTION OF AGREEMENT WITH CANNON TO PREPARE WILLOW ROAD WATERLINE, PHASE II DESIGN

Peter Sevcik, District Engineer, has been charged with District infrastructure on the Willow Road Extension Project Phase 2 from Hetrick Road to US 101 that includes Frontage Road south to Sandydale Drive. The District's 2007 Water and Sewer Master Plan Update recommended the construction of a 12-inch diameter waterline in this segment of Willow Road as well as a 12-inch diameter waterline and a short segment of 16-inch diameter waterline south on Frontage Road to Sandydale Drive. Cannon is currently designing the Willow Road Waterline Extension Phase 1 project for the District. Cannon has developed a working relationship with County staff in coordinating the Phase 1 project, the knowledge of the County's requirements acquired during the design of Phase 1 and a level of coordination effort anticipated to be required for the Phase 2 project. Mr. Sevcik answered questions from the Board.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board authorized staff to execute a Task Order or agreement with Cannon for the design of the Willow Road Waterline Extension Project Phase 2 for a not-to-exceed amount of \$89,840. There was no public comment. Vote 5-0.

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

02:19:55

- E-3) DETERMINE FUNDING FOR FY09-10 HIGH EFFICIENCY WASHER REBATE PROGRAM

Bruce Buel, General Manager, explained that the Board had suspend the HEW Rebate Program on February 11th and set this meeting for an update on the State's funding status. The State has not reinstated the funding.

Celeste Whitlow, Water Conservation Coordinator, answered questions from the Board.

The following member of the public spoke:

Donna Peterson, NCSD resident – stated that she has her own well and has cut her water use in half through conservation methods and would appreciate some kind of a rebate for those using less water, rather than just the possibility of receiving a washer rebate.

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E-3) DETERMINE FUNDING FOR FY09-10 HIGH EFFICIENCY WASHER REBATE PROGRAM (CONTINUED)

Director Winn made a motion to start the program if one of three things happen:

- o State resumes the funding for the program;
- o Board decides to have cosmetic program with very small numbers; or
- o NCS D pays \$75.00 on a new washing machine.

After Board discussion, Director Winn modified his motion to adopt a \$75.00 rebate program to customers for a water-saving washer and budget \$100.00 for each rebate for the program. Director Eby seconded the motion. Vote 4-1, with Director Harrison voting no.

The Board reopened public to hear comments from the following:

Donna Peterson, stated that it seems that even if she reduces her water usage, the costs will continue to go up. Mr. Buel suggested that Ms. Peterson call him at the office.

Marsha McCarthy - Nipomo resident – stated that the rebate program may not be hitting the Board’s target. Because of today’s economic conditions, people may not be purchasing an energy-saving washer. She stated that even though her house is on well water, she is concerned with what the District is doing with the water.

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

The Board went to Closed Session next.

05:57:56

I. CLOSED SESSION ANNOUNCEMENTS

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. NCS D (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. 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)
4. ANNUAL PERFORMANCE REVIEW OF DISTRICT LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54957
5. INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956 (ONE CASE)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public present to comment.

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K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:11 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 2:09 p.m.

Jon Seitz, District Legal Counsel, announced that the Board heard updates on the items listed above. Mr. James Markman was present via telephone conference for Item 1.

Item 4 – President Harrison announced that the Board discussed Mr. Seitz' performance. Mr. Buel was directed to transcribe the comments and present to Mr. Seitz.

Item 5 – No decision was made and there was no reportable action.

03:01:22

E-4) PUBLIC HEARING – AUTHORIZE RECORDATION OF TAX LIENS FOR PROPERTIES IN ARREARS IN PAYMENT OF SOLID WASTE FEES

Bruce Buel, General Manager, explained that each year NCSD has the authority to implement the collection procedures identified in Section 61621.2 of the Government Code for accounts that have accrued a delinquency during the last twelve months. He noted a few corrections in the proposed resolution.

President Harrison opened the Public Hearing at 2:14 p.m. There was no public present to comment.

Lisa Bognuda, Finance Director, answered questions from the Board. South County Sanitary sent out notices by certified mail in February 2009, to inform the customers of the process. The Board discussed the matter.

President Harrison closed the Public Hearing at 2:28 p.m.

Upon motion by Director Eby and seconded by Director Winn, the Board unanimously approved Resolution 2009-1145, as edited and with one deletion in Exhibit A. Vote 5-0.

**RESOLUTION NO. 2009-1145
A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE NIPOMO COMMUNITY SERVICES DISTRICT
CONFIRMING REPORT OF DISTRICT GENERAL MANAGER FOR
UNPAID SOLID WASTE COLLECTION CHARGES**

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

03:19:59

E-5) PUBLIC/PROTEST HEARING – AUTHORIZE COLLECTION OF FY2009-10 BLACKLAKE STREET LIGHT DISTRICT ASSESSMENTS

Bruce Buel, General Manager, explained that a Public Hearing is necessary to confirm the report for collection of the charges on the 2009-10 tax roll for the Blacklake Street Light District assessments.

President Harrison opened the Public Hearing.

There was no public present to comment.

The Board asked questions and discussed the resolution.

Lisa Bognuda, Finance Director, answered the Board's questions.

President Harrison closed the Public Hearing.

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E-5) PUBLIC/PROTEST HEARING – AUTHORIZE COLLECTION OF FY2009-10 BLACKLAKE STREET LIGHT DISTRICT ASSESSMENTS (CONTINUED)

Upon motion by Director Nelson, seconded by Director Eby, the Board unanimously approved Resolution 2009-1146, as edited. Vote 5-0.

**RESOLUTION 2009-1146
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
PROVIDING FOR THE COLLECTION OF STREET LIGHT CHARGES ON
THE SAN LUIS OBISPO COUNTY TAX ROLLS FOR MAINTENANCE AND
OPERATION OF EXISTING PUBLIC STREET LIGHTS IN THE BLACKLAKE VILLAGE**

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

03:28:07

E-6) PUBLIC/PROTEST HEARING – AUTHORIZE COLLECTION OF FY2009-10 LANDSCAPE MAINTENANCE ZONE #1 ASSESSMENTS

Bruce Buel, General Manager, explained a Public Hearing was in order to levy collection of assessment for the Street Landscape Maintenance District No. 1 for fiscal year 2009-2010. The assessment amount has actually been reduced from previous years.

President Harrison opened the Public Hearing.

There was no public present to comment.

The Board asked questions and discussed the proposed resolution.

Lisa Bognuda, Finance Director, answered the Board's questions.

President Harrison closed the Public Hearing.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously approved Resolution 2009-1147, as amended. There was no public comment. Vote 5-0.

**RESOLUTION NO. 2009-1147
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT ORDERING
THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE
NIPOMO COMMUNITY SERVICES DISTRICT STREET LANDSCAPE
MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2009-2010**

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

03:39:40

E-7) PUBLIC HEARING – REVIEW FY2009-10 BUDGET

Bruce Buel, General Manager, explained that some minor changes in the Board letter were requested. The paragraph starting with Fund 125 – Water, the word "surplus" could be changed to - "positive fund balance".

Page two, under Fund 830 – the "page 54" should be changed to "page 56". The Board asked for minor spelling changes within the budget.

President Harrison opened the Public Hearing at 2:51 p.m. There was no public present. Directors Harrison and Vierheilg complimented Mrs. Bognuda on the preparation of the budget.

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E-7) PUBLIC HEARING – REVIEW FY2009-10 BUDGET (CONTINUED)

President Harrison closed the Public Hearing at 2:53.

Upon motion by Director Eby and seconded by Director Vierheilig, the Board unanimously agreed to set June 24, 2009, for the adoption of the Budget for Fiscal Year 2009-2010, as amended with edits.. There was no public present to comment. Vote 5-0.

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

03:44:33

F. MANAGER’S REPORT

Bruce Buel, General Manager, added an update to the report as submitted. The Federal Appropriations request is being monitored. Today is the subcommittee meeting discussing the mark-up results.

President Harrison asked if the Board would be meeting the new employees. Mr. Buel said they will be coming to the June 24th meeting when Ms. Grietens gives the Utilities Division's report.

Peter Sevcik, District Engineer, answered some questions about groundwater rules.

03:57:46

G. COMMITTEE REPORT

Bruce Buel, General Manager, answered questions from the Board about the Committee Report.

H. DIRECTORS’ REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn

Would like to find lab testing costs for testing pharmaceuticals at the wastewater treatment facility.

Would like to add a counter for the number of hits to various sections of the NCSD website.

Received information that the APCD Dune Crest Impact Study should be released soon.

Public Comment instructions at the beginning of the agenda – can they be amended? What does "or pending before the Board" actually mean?

What effort is NCSD making about SLO County well-permitting information?

Would like to know date and place of Northern Cities Technical Group is having their public meeting like the Santa Maria meeting. Mr. Buel told Director Winn that the Watermaster for the “Northern Cities Management Area is Iris Priestoff, an engineer with Todd Engineering.

Oceano is doing a study to correct their well elevations.

Director Eby

Ask the webmaster about "hitometers" on the website and how they might show incorrect readings “BOTS” give misleading information about authentic hits.

ADJOURN

President Harrison adjourned the meeting at 3:18 p.m.

➤ **THE FOLLOWING REGULAR BOARD MEETING IS JUNE 24, 2009**

TENTATIVELY SCHEDULED ITEMS INCLUDE:

- Emergency Water Shortage Regulations
- Adoption of FY2009-10 Budget
- Adoption of District Strategic Plan