

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 44 - Years of Service 1965 - 2009*

## MINUTES

**JULY 8, 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 July 8, 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.

00:00:35

#### B. ROLL CALL

At Roll Call, all directors were present.

00:00:47

#### C. PRESENTATIONS AND PUBLIC COMMENT

##### C-1) DISTRICT ENGINEER PETER SEVCIK Update re: June Engineering Activities

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

##### C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST Receive Announcements from Directors Items of District & Community Interest

###### Director Eby

There will be no LAFCo meeting in July. There is one planned for August.

###### Director Winn

7-28-09 – Director Winn, Director Harrison, and Mr. Sevcik attended the CEQA meeting in Paso Robles. Jon and Mike Seitz were also in attendance.

7-09-09 – Planning Commission will meet discussing the Conservation Open Space Element.

7-20-09 – South County Advisory Council Land Use will meet in the District boardroom.

7-23-09 – Planning Commission will meet to discuss soils.

##### C-3) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Joe Cortez, candidate for SLO County Sheriff, introduced himself to the Board and to the community.

00:19:20

#### D. CONSENT AGENDA

##### D-1) APPROVE WARRANTS

##### D-2) APPROVE BOARD MEETING MINUTES Approve Minutes of 6/24/09 Regular Meeting

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D-3) AUTHORIZE RETENTION OF TWO UTILITY OPERATORS

Bruce Buel, General Manager, pointed out typographical error in Section C-2 of the Minutes for June 24, 2009.

Upon motion by Director Winn and seconded by Director Nelson, the Board unanimously approved the Consent Agenda, as amended. There was no public comment. Vote 5-0.

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

E. ADMINISTRATIVE ITEMS

00:21:24

E-1) PROTEST HEARING – RECEIVE PROTESTS AND PUBLIC COMMENTS RELATIVE TO FORMATION OF PARK ZONE OF BENEFIT, DETERMINE SUFFICIENCY OF PROTEST AND, IF THERE IS NO MAJORITY PROTEST, ADOPT ZONE OF BENEFIT

Bruce Buel, General Manager, explained that on June 12, 2009, staff mailed notices to the 417 property owners and 30 tenants in the proposed zone. Staff also posted notice in six different locations within the proposed zone, published a legal advertisement in the Santa Maria Times and conducted a forum on June 25, 2009. Thirteen people attended the forum. To date, there have been five protests received.

President Harrison opened the Protest Hearing at 9:27 a.m. There was no public comment. President Harrison closed the Protest Hearing at 9:28 a.m.

Upon motion by Director Eby and seconded by Director Vierheilig, the Board unanimously adopted Resolution No. 2009-1152, as amended, approving the formation of the Nipomo Community Services District Park Zone of Benefit. Vote 5-0.

**RESOLUTION NO. 2009-1152  
RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
CONDITIONALLY APPROVING THE FORMATION OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT PARK ZONE OF BENEFIT**

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

00:29:40

E-2) CONSIDER PARK INITIAL STUDY AND MAKE ENVIRONMENTAL DETERMINATION AUTHORIZE CIRCULATION OF NOTICE OF INTENT TO ADOPT MITIGATED NEGATIVE DECLARATION OR TAKE ALTERNATE ACTION

Bruce Buel, General Manager, explained that an Initial Study for transfer of land from the County to NCSD, activation of NCSD's Latent Parks Authority, formation of an assessment district, and development and operation of the proposed Olde Towne Neighborhood Park (potentially Jim O. Miller Park) was prepared by Doug Wood of Doug Wood and Associates. If the Initial Study is approved, the next step would be to circulate a Notice of Intent to Adopt a Mitigated Negative Declaration.

Douglas Wood, of Douglas Wood and Associates, answered questions from the Board. The Board reviewed the draft Initial Study with Mr. Wood and made suggestions for changes to the document.

The following member of the public spoke:

Kathy Kubiak, President of Olde Towne Nipomo Association, suggested that the Board consider solar lighting for portions of the park. She also stated that the railroad tracks, within the proposed park area and discussed by the Board, are now in the right place.

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E-2) CONSIDER PARK INITIAL STUDY AND MAKE ENVIRONMENTAL DETERMINATION  
(CONTINUED)

Director Winn stated he was in favor of solar lighting wherever feasible.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board unanimously agreed to adopt the Initial Study, as amended, and authorized staff to circulate Notice of Intent to Adopt Mitigated Negative Declaration to all responsible agencies, trustee agencies and interested parties. Vote 5-0.

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

The Board took a break at 10:25 a.m. and resumed the meeting at 10:36 a.m.

01:24:59

E-3) APPROVE PHASE 1 WILLOW ROAD WATERLINE PROJECT AND RELEASE DEPOSIT TO COUNTY

Peter Sevcik, District Engineer, explained that San Luis Obispo County is planning to extend Willow Road from Pomeroy Road to Hetrick Road this fall. The District's 2007 Water and Sewer Master Plan Update recommended the construction of a 12-inch diameter waterline in this segment of roadway. The County has finalized the design for the roadway and the District has finalized the design for the waterline so that the projects can be bid concurrently.

The County adopted an Environmental Impact Report for the roadway project that is available on the County's website. Staff recommends that the Board concur with the County's Environmental Impact Report and authorize staff to file a Notice of Determination.

Mr. Sevcik answered questions from the Board.

There was no public comment.

Upon motion by Director Vierheilig and seconded by Director Eby, the Board unanimously adopted Resolution 2009-1153, authorizing a deposit to SLO County for construction of Willow Road Extension. Vote 5-0.

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

**RESOLUTION NO. 2009-1153  
A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
AUTHORIZING DEPOSIT TO SAN LUIS OBISPO COUNTY FOR  
CONSTRUCTION OF WILLOW ROAD PHASE 1 WATERLINE EXTENSION**

01:34:42

E-4) CONSIDER REQUEST FROM OTNA TO ASSIST IN INSTALLATION AND REMOVAL OF OLDE TOWNE BANNERS AND FLAGS

Bruce Buel, General Manager reviewed the request from the Olde Towne Nipomo Association for assistance with the banners for the holiday season and for special events and with flags on Memorial Day, Independence Day and Veterans Day. OTNA indicated that they have \$855.86 in a fund available to defray NCSD's out-of-pocket cost. After calculating the costs, assuming six events per year, the annual out-of pocket cost to NCSD would be \$4,800 per year.

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E-4) CONSIDER REQUEST FROM OTNA TO ASSIST IN INSTALLATION AND REMOVAL OF OLDE TOWNE BANNERS AND FLAGS (CONTINUED)

Jon Seitz, District Legal Counsel, stated that California Government Code requires Special Districts to adhere to fund accounting. At this time, there is not a fund available for this type of expenditure.

The Board discussed the matter. Director Winn suggested that there may be some possibility of providing the service requested in the future. As an alternative, he also suggested that OTNA use volunteers for the tasks needed.

The following member of the public spoke:

Kathy Kubiak, President of Olde Towne Nipomo Association, suggested that OTNA and NCSD possibly enter into a Memorandum of Understanding for the costs to be paid through the funds collected from vendors at the special events.

Director Winn suggested that since OTNA is committed to raising funds for this service, perhaps OTNA could hire a service at a much lower cost than NCSD's costs.

Ms. Kubiak stated that they had tried in the past but had not been successful finding a company willing to do such small job.

Mr. Buel suggested OTNA contact SP Maintenance.

Upon motion by Director Winn and seconded by Director Eby, the Board agreed to decline the offer at this time but ask OTNA to continue to work with NCSD to find something that can work in the future. Vote 4-1, with Director Harrison dissenting.

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

01:49:42

E-5) DISCUSS WELL LEVEL MONITORING AND REPORTING

Peter Sevcik, District Engineer, explained that the District measures groundwater surface elevations in District wells on a monthly basis using either the sounding tape method or the pressure reading method. The District hired Michael LeBrun, M.S. LeBrun Environmental Engineering, to review the District's current procedure for well data collection and reporting, develop a measurement protocol and provide a recommendation for monitoring improvements. Mr. LeBrun provided a technical memorandum that outlines Mr. LeBrun's findings and recommendations.

The Board discussed proceeding with a method to get accurate measures from all District wells.

Michael LeBrun answered questions from the Board. The golf courses use reclaimed water and well water.

The Board discussed procedure with Mr. Seitz, District Counsel.

*The Board took a break at 11:51 a.m. and returned at 1:15 p.m.*

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E-5) DISCUSS WELL LEVEL MONITORING AND REPORTING (CONTINUED)

After resuming the meeting, the Board discussed phasing the well-measuring project for a more accurate method and the most prudent manner.

Upon motion by Director Eby and seconded by Director Winn, the Board unanimously agreed to proceed in the most prudent manner, select the most accurate, repeatable, useful method possible to measure all west-side wells. There was no public comment. Vote 5-0.

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

05:51:19

E-6) VOTE FOR ELECTION OF UP TO FOUR CANDIDATES TO FILL VACANT SEATS ON THE SDRMA BOARD OF DIRECTORS

Bruce Buel, General Manager, reviewed the notice from Special District Risk Management Authority (NCSA's insurance carrier). SDRMA is governed by a seven member Board of Directors. Every two years, SDRMA conducts elections to fill the seats of those elected four years previously. This year, there are four such seats and there are eight candidates, including two incumbents.

The Board discussed all the candidates. Upon motion by Director Eby and seconded by Director Winn, the Board unanimously adopted Resolution 2009-1154, as amended to include votes for David Aranda, Muril Clift, Allison Hamaker, and John Yeakley. There was no public present to comment. Vote 5-0.

**RESOLUTION 2009-1154**  
**A RESOLUTION OF THE GOVERNING BODY OF THE**  
**NIPOMO COMMUNITY SERVICES DISTRICT**  
**FOR THE ELECTION OF DIRECTORS TO THE**  
**SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY**  
**BOARD OF DIRECTORS**

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

03:02:11

E-7) CONSIDER PRESIDENT HARRISON'S REQUEST TO SPONSOR SUSTAINABLE COMMUNITIES WORKSHOP

President Harrison proposed that the District sponsor a workshop for Nipomo regarding ideas on transition toward self reliance on the community level. The group leading the workshop would provide the workshop and materials free of charge.

The Board discussed the possibility of holding a workshop. Upon motion by Director Winn and seconded by Director Vierheilig, the Board agreed to proceed with arranging a workshop to be held in the District boardroom with a budget of \$500 to be allocated from the property taxes. Vote 3-2 with Directors Nelson and Eby dissenting.

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

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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. NCSD (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; 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

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

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 3:02 p.m.

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

03:22:47

F. MANAGER'S REPORT

Bruce Buel, General Manager, added information to the Manager's Report.

The application for parks authority was submitted to LAFCo.

Mr. Buel met with Dan Gaddis, SCAC President, and talked about a presentation to SCAC for the proposed park.

Director Winn stated there was a page number mistake in the WRAC Subcommittee report. He stated page notation 10.17 should be 10.20.

03:33:05

G. COMMITTEE REPORT

The Committee Report is as submitted.

03:34:04

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn

See what kind of intertie the conventional water systems have in Woodlands and Blacklake with their golf course watering.

CEQA global climate change

What is the status of the JPA structure bond?

Consider forum – outdoor water policies and strategies

Suggested speakers for forum – Ron Mund from City of SLO and Ellen Hayak who works for California Public Policy Agency forum could be held by WRAC, NCSD or CSDA.

ADJOURN

President Harrison adjourned the meeting at 3:02 p.m.

➤ THE FOLLOWING REGULAR BOARD MEETING IS JULY 22, 2009  
TENTATIVELY SCHEDULED ITEMS INCLUDE:

- Public Facilities Corporation Annual Meeting
- Adopt Strategic Plan