

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

MINUTES

SEPTEMBER 9, 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 September 9, 2009 Regular Board Meeting to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all directors were present.

00:00:00

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) NCSD STAFF MEMBERS TINA GRIETENS AND PETER SEVCIK

Update re: Fire at Sundale Well, Production Limits & Need for Customer Help

Tina Grietens, Utility Superintendent, and Peter Sevcik, District Engineer, reviewed the events of the fire at the Sundale Well and how it will affect the water production for the District.

Ms. Grietens and Mr. Sevcik answered questions from the Board.

The following members of the public spoke:

Ian Wallace, NCSD resident – asked why the District could not install a chloramine system rather than replace the chlorine system since it will be needed when the Waterline Intertie Project is built. He understood that a well at Blacklake had been converted already. He also asked if there was a fire detection system in the building that burned.

Mr. Sevcik answered that the chloramine system must be installed at the Sundale Well during construction of the WIP at the same time as the other well locations. The chlorine system will be installed at the Sundale Well now. No well in the District has been converted yet. Mr. Sevcik explained that chloramines are not compatible with the chlorine system we presently use. Mr. Sevcik indicated that there was not a fire system in the building that burned.

C-2) NCSD DISTRICT ENGINEER PETER SEVCIK

Update re: August 2009 Activities

Peter Sevcik, District Engineer, reviewed the memorandum presented in the Board packet. He answered questions from the Board.

C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig

Nipomo Native Garden will have a workday Saturday, Sept. 12th, from 9 to 12 a.m.

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C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST (CONT)

Nipomo Native Garden will have its annual plant sale Sunday, Oct. 4th, in the Nipomo Native Garden parking lot from 9 a.m. to 3 p.m.

Opening of a natural gas fuel station by South County Sanitary Service will be Wednesday, Sept. 30th, at 3:30 p.m. There will be cocktails from 5-7 p.m. at the Sea Venture Resort. RSVP is required.

Director Eby

Tickets are still available for the Sept. 27, 2009 concert to benefit the Dana Adobe. Tickets are \$20.00. Reception will be at 3:00 p.m. and concert at 4:00 p.m.

Director Winn

- Aug. 28, 2009 – Information tour for the Paso Robles Wine Country Alliance. The group is developing a method for confidential reporting of water pumping by farmers.
- Sept. 3, 2009 – Mr. Winn met with Supervisor Achadjian and discussed the Joint Powers Agreement. It will be on the Board of Supervisors agenda in a few weeks.
- Sept. 8, 2009 – The SLO Board of Supervisors met with the Planning Commission. Copies of the report were provided. The Board of Supervisors agenda and the Planning Commission's plan for the coming year can be downloaded on the County's website.
- Sept 21, 2009 – The SCAC Land Use Sub-Committee will meet in NCSD'S Board Room.
- Sept 29, 2009 – Proposed Miller Park forum regarding design and funding will be held in NCSD Board room at 6:30 p.m.
- Sept. 30, 2009 – A community forum will be held concerning Willow Road extension and funding for same.

C-4) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

Ian Wallace, NCSD resident – asked what one can do with pharmaceuticals which are no longer needed.

Mr. Buel explained that there is a nationwide program. The information will be in the District's next newsletter, and he will send the information to Mr. Wallace.

00:52:25

D. CONSENT AGENDA

Items D3, D5, and D7 were pulled from the Consent Agenda for separate consideration.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES
Approve Minutes of 8/26/09 Regular Meeting

D-4) APPROVE TRANSFER OF FUNDS FOR BACKHOE PURCHASE

**RESOLUTION NO. 2009-1158
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING THE DISTRICT BUDGET TO PROVIDE FOR THE PURCHASE OF A BACKHOE**

D-6) RETAIN THE WALLACE GROUP TO PREPARE FINAL ASSESSMENT REPORT FOR MILLER PARK ASSESSMENT DISTRICT

There was some Board discussion on the warrants. Director Winn would like a notation on the next gas bill that is received that notes the gas consumed during the fire.

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D. CONSENT AGENDA (CONT)

The following member of the public spoke:

John Snyder, Nipomo resident – stated that if the District should build additional storage and pump water at night when the rates are lower, it might save money on the electrical expenses.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously approved Items D1, D2, D4 and D6 of the Consent Agenda. Vote 5-0.

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

Items D3, D5, and D7 pulled for separate consideration.

D-3) EXTEND SCIENCE DISCOVERY EDUCATION OUTREACH AGREEMENT

Bruce Buel, General Manager, reviewed the changes in the agreement with Mike deMilo of Science Discovery.

Kari Wagner, from the Wallace Group and author of the agreement, explained the minor changes in the agreement and answered questions from the Board.

Celeste Whitlow, Water Conservation Coordinator, told the Board that last year the cost was around \$200 for the Science Discovery outreach program.

Director Winn stated that presentation to the School Board is most important. He would like to be notified of the date of the presentation in order that those Board members who can attend may.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously agreed to authorize the General Manager to execute a *Cooperative Agreement* with the four other water purveyors and Science discovery for classroom presentations for Fiscal Year 2009-2010, with the addition of \$220.00 for the preparation of a presentation to be given to the Lucia Mar School Board. Vote 5-0.

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

D-5) AMEND UTILITY WORKER JOB DESCRIPTION TO REQUIRE D-1 CERTIFICATION

Bruce Buel, General Manager, explained that the current job description for the Utility Worker needs to be amended to state the following:

- Grade 1 Water Distribution Certification is required.
- Grade 1 Wastewater Collection System Maintenance Certification must be obtained within twelve months of hire.

The Board discussed the requirements needed for the planned position.

Tina Grietens, Utility Superintendent, explained why the OIT requirement is being requested to be dropped.

Upon motion of Director Vierheilg and seconded by Director Nelson, the Board unanimously approved Resolution 2009-1159. Vote 5-0.

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

**RESOLUTION NO. 2009-1159
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING THE DISTRICT PERSONNEL POLICY TO
REVISE UTILITY WORKER JOB DESCRIPTION**

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D-7) AUTHORIZE PAYMENT OF YR 2000 INVOICE FOR ARCHEOLOGICAL SERVICES

Bruce Buel, General Manager, reviewed the correspondence from C.A. Singer regarding services rendered to NCSD in 2000. Mr. Buel answered questions from the Board.

Jon Seitz, District Legal Counsel, stated that there is no legal obligation to pay the bill but a policy change is possible.

Director Winn related what happened at that time. After Board discussion, the following member of the public spoke:

John Snyder, Nipomo resident – stated that Mr. Seitz should have the paperwork relating to the matter.

Upon motion by Director Eby and seconded by Director Vierheilig, the Board unanimously agreed to postpone payment of the bill until further information can be provided by Mr. Singer. Vote 5-0

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

The Board took a break at 10:34 a.m. and resumed the meeting at 10: 46 a.m.

E. ADMINISTRATIVE ITEMS

01:33:15

E-1) PUBLIC HEARING – CONSIDER KENGEL INTENT-TO-SERVE APPLICATION FOR WATER AND SEWER SERVICE FOR MULTI-FAMILY APARTMENT COMPLEX ON BLUME STREET SOUTH OF WEST TEFFT STREET

Peter Sevcik, District Engineer, reviewed how changes in the allocation policy apply to the application from Bill Kengel for water and sewer service for project CO 06-0225 on Blume Street.

Mr. Sevcik and Mr. Buel answered questions from the Board.

Director Winn mentioned that the well on the property should be taken out of service. Mr. Buel stated that after the lot-split is complete, the well will not be a part of the subdivision.

The following members of the public spoke:

Vince McCarthy, NCSD resident – stated that there was a loss of a major well. He asked if there was sufficient water to supply the project.

Answer: The well that was lost will be in operation again by the time Mr. Kengel's project requires water service.

John Belsher, representative for the project, asked about the available allocations.

Director Winn asked if any of the units are proposed to be low-income.

Mr. Belsher stated that there was no project description yet.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board approved the issuance of an Intent-to-Serve letter with the additional language of the conditions stated in the Board letter. Vote 4-1, with Director Eby dissenting.

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

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01:52:30

E-2) REVIEW PRELIMINARY ASSESSMENT RESEARCH FOR PARTNER PURVEYORS FOR WIP CONSTRUCTION FUNDING

Bruce Buel, General Manager, explained that the Wallace Group was hired to evaluate the potential assessment roll for the properties inside NCSD, Woodlands Mutual Water Company, Golden State Water Company and Rural Water Company to partner in funding the Santa Maria Waterline Intertie Project.

Kari Wagner from the Wallace Group and Jon Seitz, District Legal Counsel, answered questions from the Board. Director Winn asked that the boundaries be more clearly defined.

The following members of the public spoke:

John Snyder, Nipomo resident, stated that he was confused about Nipomo buying water from Santa Maria and if Santa Maria had clear title to the water.

Bill Petrick, NCSD resident, asked questions about capital costs noted on the tables on page 2.

Bruce Buel, General Manager, explained that \$17 million is the NCSD share and \$6 million has been committed from reserves. Equity between entities is the goal. President Harrison would like to make it clear to the public that information will be made available and exemptions are possible for those properties that qualify.

There was no action taken.

02:32:28

E-3) DISCUSS ORDINANCE ESTABLISHING VOLUNTARY EMERGENCY WATER SHORTAGE REGULATIONS AND SET HEARING FOR INTRODUCTION

Jon Seitz, District Legal Counsel, reviewed the proposed ordinance and answered questions from the Board. The Board discussed the proposed ordinance and offered minor changes.

The following member of the public spoke:

Bill Petrick, NCSD resident asked, if the ordinance is voluntary, who will regulate?

President Harrison answered that these regulations are meant to enlighten the community and are recommendations for conservation.

E-3) DISCUSS ORDINANCE ESTABLISHING VOLUNTARY EMERGENCY WATER SHORTAGE REGULATIONS AND SET HEARING FOR INTRODUCTION (CONT)

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously agreed to the "Voluntary Conservation Measures" in concept with minor edits and moving B1 to A and to set a hearing for September 30, 2009, for Introduction of the Ordinance. Vote 5-0.

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

The Board considered Closed Session next.

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following items for Closed Session.

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- 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 DISTRICT LEGAL COUNSEL PENDING LITIGATION GC SECTION 54956.9; NCSD VS. COUNTY SLO, ET AL. (CASE #CV090010)
- 3. ANNUAL PERFORMANCE REVIEW OF GENERAL MANAGER PURSUANT TO GOVERNMENT CODE SECTION 54597

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

K. ADJOURN TO CLOSED SESSION

President Harrison adjourned to Closed Session at 12:02 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:28 p.m.

Jon Seitz, District Legal Counsel, announced that the Board heard an update on Items 1 & 2 above and took no reportable action.

Item 3 – The Board concluded the review. President Harrison will meet with the General Manager to report the results of the review.

02:50:34

E-4) REVIEW AND EDIT DRAFT AMENDMENTS TO ALLOCATION PROGRAM AND DRAFT EDITS TO INTENT-TO-SERVE PROCESS GUIDELINES AND SET DATE FOR INTRODUCTION

Jon Seitz, District Legal Counsel, explained that the Board authorized staff to present potential revisions to the allocation ordinance. He reviewed the major revisions. Mr. Seitz answered questions from the Board.

E-4) REVIEW AND EDIT DRAFT AMENDMENTS TO ALLOCATION PROGRAM AND DRAFT EDITS TO INTENT-TO-SERVE PROCESS GUIDELINES AND SET DATE FOR INTRODUCTION (CONT)

The following members of the public spoke:

Vince McCarthy, NCSD resident – stated that the engineer can certify but cannot guarantee 15% reduction of an unknown amount of water. The District needs redirection protection if supplemental water doesn't come through.

John Belsher, representative for Mr. Kengel, stated that multi-family should be 0.30 AFY and gave the Board some information.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously agreed to bring the ordinance to the September 30, 2009 Board meeting for a first reading. Vote 5-0.

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

The Board took a break at 2:43 p.m. and returned at 2:53 p.m.

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04:07:37

E-5) REVIEW DRAFT WATER FUND FINANCIAL ANALYSIS/RATE STUDY AND PROPOSE FUTURE RATE INCREASE

Bruce Buel, General Manager, explained that the Board hired Clayton Tuckfield to develop a water fund financial analysis and rate study. The draft presented illustrates the impact to NCS D's existing customers.

Clayton Tuckfield reviewed the presentation, which included some of the following slides: Objectives, Study Assumptions, Customer Growth, Expense Inflation Factors, Interest Earning Rate, Capital Financial Plan, Water Fund Financial Plan (Options), Water Fund Option Matrix, Current Rate Structure, Billing Information Analysis Findings, Propose Fixed Charges, Proposed Residential Variable Rate Structures, Proposed Non-Residential Variable Rate Structures, Rate Survey, Comparison of Single-Family Residents bi-Monthly Water Bills, etc. Mr. Tuckfield answered questions from the Board.

The following members of the public spoke:

Bill Petrick, NCS D resident – asked for clarification on future debt service and O & M expenses referenced in the report. He also stated that the COP interest rate is cheaper than an assessment.

The Board discussed the report, including tiered rates. Director Eby provided graphs showing different tiered rates and the effect on the water bills.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously agreed to finance the capital portion of the Waterline Intertie Project through an assessment district. Vote 5-0. Mr. Buel will work with Mr. Tuckfield to break out the costs of the project versus the O & M.

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

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously agreed to propose a 19.5% increase in the cost of water per year for five years assuming assessment funding and the full repayment method for replacement. Vote 5-0.

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

Director Winn made a motion to adopt a three-tiered rate structure. The motion failed due to the lack of a second.

Upon motion by Director Vierheilg and seconded by Director Nelson, the Board agreed to propose a four-tiered water rate structure for future consideration. Vote 3-2, with Directors Eby and Winn dissenting.

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

05:26:35

E-6) CONSIDER ADOPTION OF PROTEST PROCEEDING GUIDELINES

Bruce Buel, General Manager, explained that a set of protest proceeding guidelines was drafted for the Board's consideration.

Jon Seitz, District Legal Counsel, responded to a letter received from the Blacklake NCS D Liaison Committee delivered to NCS D by Bill Petrick via e-mail.

The following members of the public spoke:

Bill Petrick, NCS D resident – asked for clarification on no votes for each parcel versus each meter.

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E-6) CONSIDER ADOPTION OF PROTEST PROCEEDING GUIDELINES (CONTINUED)

Mr. Seitz answered that there is only one vote counted per parcel.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board unanimously approved Resolution 2009-1160, as edited. Vote 5-0.

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

**RESOLUTION 2009-1160
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING GUIDELINES FOR THE SUBMISSION AND
TABULATION OF PROTESTS IN CONNECTION WITH RATE HEARINGS
CONDUCTED PURSUANT TO ARTICLE XIID, SECTION 6,
OF THE CALIFORNIA CONSTITUTION, AND RELATED NOTICING**

05:48:15

E-7) DISCUSS REQUEST TO RECONSIDER POSITION ON SPHERE OF INFLUENCE DEFINITION FOR LAFCO MUNICIPAL SERVICE REVIEW AND CONSIDER PLACING ITEM ON SUBSEQUENT AGENDA

Director Eby suggested that NCSD recommend to LAFCo shrink the Sphere of Influence in order that NCSD can accommodate existing water users with the existing water, even when supplemental water arrives.

E-7) DISCUSS REQUEST TO RECONSIDER POSITION ON SPHERE OF INFLUENCE DEFINITION FOR LAFCO MUNICIPAL SERVICE REVIEW AND CONSIDER PLACING ITEM ON SUBSEQUENT AGENDA (CONT)

There was Board discussion. The Sphere of Influence is not about having water just now but having a 20-year plan. NCSD would like to maintain first right-of-refusal. Mutual water companies might be formed inside the current SOI if not within NCSD's sphere. There is no need to give up the existing sphere.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board agreed to reaffirm the commitment to retain its Sphere of Influence as previously approved by LAFCo. Vote 4-1, with Director Eby dissenting.

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

05:59:00

F. MANAGER'S REPORT

Bruce Buel, General Manager, updated the Board with information about the Planning Commission and water theft at the Maria Vista development. He reminded the Board of the NMMA Technical Committee meeting, Friday, October 16, 2009. Jon Seitz, District Legal Counsel, noted the bankruptcy pleadings for Maria Vista.

06:04:11

G. COMMITTEE REPORT

The Committee Report is as submitted in the Board packet.

06:04:20

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Eby

Would like information on AB2882 – water rate structure.

Director Vierheilig

Would like to see the impact of CAL PERS modified rate-setting formula on retirement benefits.

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H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Harrison

Would like to know how much money NCSD lost to the State.

Director Winn

- Would like to agendaize report on negotiations with John Scardino at Woodlands for the Waterline Intertie Project.
- Would like more information on the Regional Water Quality Control Board two-acre parcels or larger issue.
- Would like information on Rural Water Company mapping (meter on every water line that leaves the Mesa for the "Northern Cities")
- Would like to agendaize discussion of the origin of the Sundale fire
- Confirm with Bill Worrel of the Integrated Waste Management how old medicines can be disposed. Suggested to call a hospital.
- Look into John Snyder's suggestion of creating more storage to capture lower energy rates.

ADJOURN

President Harrison adjourned the meeting at 5:00 p.m.