

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 45 Years of Service 1965 - 2010

MINUTES

MAY 26, 2010 AT 9:00 A.M.

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

MICHAEL LEBRUN, **INTERIM GENERAL MANAGER**
LISA BOGNUDA, **ASSIST. 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 meeting of the May 26, 2010 Regular 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 directors were present.

00:00:55

C. PRESENTATIONS AND PUBLIC COMMENT

President Harrison announced that he would go off the scheduled agenda. He informed the public present at the meeting that the article in the May 21st Adobe Press newspaper, referring to a proposed sewer rate increase, was not correct. He stated that NCS D has the rate set for the Blacklake area until 2013. The last increase for the Town Division became effective January 2010. He explained that before such an increase would take place, the District would need to do a rate study. The District has not contracted to have such a study performed. Once a rate study is complete, a notice would be sent to every homeowner and customer affected by the proposed rate increase. Then there would be a Proposition 218 protest vote.

Jon Seitz, District Legal Counsel, confirmed what President Harrison stated. The District must follow a very specific process in order to raise rates. This includes providing written notice to each property owner and tenant of the proposed area affected and give them the opportunity to protest. The process is embodied in the California Constitution by statute. He stated that there is nothing on the agenda to conduct a rate study or have a rate increase.

Michael LeBrun, Interim General Manager, stated that he read the article Saturday and contacted Ms. Fredericks Monday morning. He informed Ms. Fredericks that the District has no plan today or in the near future for a sewer rate increase. She apologized and said she would be writing a retraction in the next issue.

President Harrison stated an upgrade is planned in the sewer treatment facility. The funds for the update are available from the rate increases already in place and the capacity fees paid by new development. He opened the meeting to public comment.

00:05:14

The following members of the public spoke to the newspaper article:

Joe de Santos, NCS D customer, stated that he moved here in 2005 and did not receive a notice before the last increase. He agreed that it may have been sent before he moved here.

Jeanne Taylor, NCS D resident, stated that the sewer rate for a single person in a home is high. She agreed that a protest notice was sent out and only 32 people objected.

Roanna Holm, NCS D resident, stated that she didn't know why she must pay so much for

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sewer service for one person. There should be a tier for people who don't put much water into the sewer.

Peggy Shurtleff, NCSD resident, stated that rates have increased quite a bit. There should be tiers on the sewer rate for people who do not use the water or the sewer.

Kenneth Gilder, NCSD resident, stated that he lives alone. The rates are high for one person and there needs to be a rate decrease for the sewer.

Linda Tomlinson, NCSD customer, stated that many parents of the children she taught here in Nipomo complained about not being able to afford the housing here. Her renters on Dana Street are having a difficult time affording rate increases.

Roy Damas, NCSD resident, stated that he would like the cost of expansion to go to the developers and not all of the costs to the users.

Jon Seitz, District Legal Counsel, reviewed some information for the audience.

- ◇ Regulatory requirements: There are certain discharge and treatment requirements from the State Water Resources Control Board. Sewer systems are highly regulated by the State. NCSD is responding to those requirements by improving on the quality of wastewater treatment.
- ◇ Operation & maintenance: There are constant maintenance needs. Equipment needs to be maintained and replaced.
- ◇ Expansion: Paid for by AB1600 fees, which are capacity charges to developers.
- ◇ Proposition 218 protest hearings for rate increases are held through the proper method.
- ◇ NCSD Rate Study is published on the District website.

00:18:52

C-1) MIKE NUNLEY OF AECOM
Update re: Waterline Intertie Project

Mike Nunley, AECOM Engineering Project Manager, reviewed the memorandum in the Board packet and answered questions from the Board.

Josh Reynolds, Project Manager, explained about the creation of a public lot which would require the property owner's signature first.

There was no public comment.

The Board thanked Mr. Nunley and Mr. Reynolds for the report.

00:30:26

C-2) NCSD SUPERINTENDENT TINA GRIETENS
Update recent Operations activities.

Tina Grietens, Utility Superintendent, reviewed the report provided in the Board packet, summarizing the activities of the recent operations. She answered questions from the Board. There was no public comment. The Board thanked Ms. Grietens for the report.

00:43:03

C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig

May 27, 2010, 9:00 a.m. - SLO County Planning Commission meeting at the Board of Supervisors. One topic to be considered will be the proposed medical marijuana dispensary in Nipomo. If you don't want it in this community, go to the meeting and let yourself be heard.

C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest (CONT.)

Director Winn

There is an ordinance in this county that permits medical marijuana dispensary within

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certain limits; however, the proximity to a children's gymnastics building may be the cause to deny the dispensary request.

Director Eby

Willow Road Extension ribbon-cutting ceremony will be held at the Edwards Barn at 12:00 noon, today.

Director Harrison

He stated that he attended the California Special Districts Association (CSDA) seminar in Sacramento May 11th & 12th. He reported that the state received 3.8 billion less income taxes than was anticipated in April, which put the state about \$8 billion short of the budget projections. Last year, the State is looking at ways to take property taxes from special districts. The state proposes taking more money from the special districts. This year the state took property taxes from special districts. There is a bill being discussed, proposed by Mendoza, whereby public entities cannot go bankrupt, without going through a state-controlled agency, a six-month or more process before approval. He met with a representative from Blakeslee's office, as well as those from Maldonado's office.

South County Advisory Committee – A garage built in right-of-way in Upper Los Berros Road. The Planning Department is recommending that a variance be granted because others in vicinity did the same.

The Board decided to take a break at 11:45 a.m. to go to the ground-breaking ceremony.

C-4) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

00:55:21

D. CONSENT AGENDA

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of May 12, 2010

Approve Minutes of May 19, 2010

D-3) ADOPT RESOLUTION SETTING BIENNIAL ELECTIONS

**RESOLUTION NO. 2010-1188
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REQUESTING THE BOARD OF SUPERVISORS OF
THE COUNTY OF SAN LUIS OBISPO TO CONSOLIDATE
A GENERAL DISTRICT ELECTION TO BE HELD ON NOVEMBER 2, 2010,
WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE
SAME DATE PURSUANT TO SECTION 10403 OF THE ELECTION CODE**

The Board suggested checking the boxes where appropriate for the proposed resolution. Upon motion by Director Eby and seconded by Director Vierheilg, the Board unanimously approved the Consent Agenda as amended. There was no public comment. Vote 5-0.

D. CONSENT AGENDA (CONTINUED)

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

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00:58:15

E. ADMINISTRATIVE ITEMS

E-1) DANA ADOBE FACILITIES AND WATER SERVICE REVIEW

Michael LeBrun, Interim General Manager, summarized the staff report.

The following members of the public spoke:

Marina Washburn, Executive Director of the Dana Adobe Nipomo Amigos (D.A.N.A.) described the proposed expansion of the Dana Adobe area, which includes a park with individual family barbeque spots.

Dr. Herb Kandel, Nipomo resident and volunteer with Dana Adobe, showed an artist's rendering of the proposed park area. He reviewed the request to NCSD to partner with D.A.N.A, which may help secure a grant for the project.

Ms. Washburn and Dr. Kandel answered questions from the Board.

Director Winn gave them suggestions for useful information sources (Tim Cleath's water shed study, RCD's study of the Adobe Creek, etc.)

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously agreed to direct staff to work with D.A.N.A. to provide a letter of support for the project, not using the term "partner" unless the funding application requires it. Vote 5-0.

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

The Board took a break at 10:32 a.m.

01:31:33

E-2) RETAIN WALLACE GROUP TO PREPARE SOURCE CONTROL NEEDS ASSESSMENT FOR THE DISTRICT'S SOUTHLAND WASTEWATER TREATMENT FACILITY SERVICE AREA FOR THE AMOUNT OF \$9,822

Peter Sevcik, District Engineer, reviewed the fact that the District is in the process of implementing a Fats, Oils, and Grease (FOG) Program as required by California State Water Resources Control Board Order No. 2006-003, Statewide General Waste Discharge Requirements (WDR) for Wastewater Collection Agencies. In order to implement a pretreatment program, the District first needs to identify the types of industrial and commercial wastewater users that are connected to the sanitary sewer system and determine what types of wastewater constituents might need to be regulated. The Board needs to have justification to prepare an ordinance for a pretreatment program.

Mr. Sevcik answered questions from the Board.

There was no public comment.

-2) RETAIN WALLACE GROUP TO PREPARE SOURCE CONTROL NEEDS ASSESSMENT FOR THE DISTRICT'S SOUTHLAND WASTEWATER TREATMENT FACILITY SERVICE AREA FOR THE AMOUNT OF \$9,822

Upon motion by Director Eby and seconded by Director Vierheilig, the Board agreed to authorize the General Manager to execute a Task Order with Wallace Group to prepare a Source Control Program Needs Assessment for the not-to-exceed amount of \$9,822.00. Vote 3-2, with Directors Winn and Harrison voting no.

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

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01:53:46

E-3) CSDA BOARD CALL FOR NOMINATIONS

Michael LeBrun, Interim General Manager, reviewed the memorandum CSDA Board of Directors calling for nominations to Region 4, Seat B. The Board discussed the item and agreed there would be no nomination from the Nipomo Community Services District Board.

The Board considered item E-6 next.

01:58:39

E-6) LAFCO SPECIAL DISTRICT BALLOT

Michael LeBrun, Interim General Manager, reviewed the item to vote for one of the two individuals nominated to fill the Special District alternate seat of the Local Agency Formation Commission. After some Board discussion, the Board unanimously agreed to support Brian Kreowski and directed staff to file the completed ballot with LAFCO. There was no public comment. Vote 5-0.

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

The Board considered Closed Session next.

02:03:55

I. CLOSED SESSION ANNOUNCEMENTS

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

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO 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 PENDING LITIGATION GC§54956.9 MARIA VISTA VS. NCSD (CASE NO. CV 040877), MARIA VISTA VS. NCSD (CASE NO. CV 061079), AND MARIA VISTA VS. LINDA VISTA FARMS, NCSD ET AL. (CASE NO. CV 040150);
3. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC SECTION 54956.9; NCSD VS. COUNTY SLO, ET AL. (CASE #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 11:15 a.m. The Board came back into Open Session at 1:00 p.m. with plans to enter into Closed Session later in the meeting. The next item considered was E-4.

The Board went back into Closed Session at 3:29 p.m.

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E-4) FEE COLLECTION POLICY REVIEW DRAFT ORDINANCE

Michael LeBrun, Interim General Manager, explained that the Board directed staff to provide an opportunity for review and discussion of District procedure for collection of supplemental water capacity charges. On several occasions, the Board has discussed fee collection and reviewed the District's schedule of fee collection with consideration for delaying development-related fee collection across all categories of development. District fees include connection and capacity charges and are set to represent a buy-in to existing infrastructure and cost of developing additional resources and infrastructure to serve the new development.

Jon Seitz, District Legal Counsel, reviewed the concepts in the proposed ordinance.

The following members of the public spoke:

Greg Nester, local developer, thanked the Board for the efforts to help in this economic climate. He asked for clarification of one part of the ordinance. Mr. Seitz explained.

Terry Flatley, local developer, thanked the Board for all they have done in this process.

The Board made comments and suggestions on the proposed ordinance.

Upon motion by Director Winn and seconded by Director Nelson, the Board agreed to direct staff to make the corrections and come back with an ordinance for the first reading. Vote 4-1, with Director Eby voting no.

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

The Board took a break at 2:00 p.m. and returned at 2:06 p.m.

02:58:51

E-5) REVIEW FRONTAGE ROAD TRUNK SEWER CONSTRUCTION TIMELINE

Peter Sevcik, District Engineer, reported that the Frontage Road Trunk Sewer Project involves the replacement of approximately 4,300 linear feet of sewer line in Frontage Road between Division Street and the Southland WWTF influent pump station. The Frontage Road Trunk Sewer can be built before or concurrently with the Southland WWTF Upgrade but not after the plant upgrade. Based on the current Waterline Intertie Project (WIP) schedule and the remaining obstacles that need to be overcome, the timeline for construction of the WIP is uncertain.

E-5) REVIEW FRONTAGE ROAD TRUNK SEWER CONSTRUCTION TIMELINE (CONTINUED)

Board discussion ensued. Mr. Sevcik and Mr. LeBrun answered the Board's questions. There was no public comment.

Upon motion by Director Eby and seconded by Director Vierheilg, the Board unanimously agreed to bid and construct the Frontage Road Trunk Sewer Project separately from the WIP. Vote 5-0.

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

03:19:39

E-7) STATUS UPDATE ON MAY 20, 2010 LOCAL AGENCY FORMATION COMMISSION MEETING REGARDING THE DISTRICT'S SPHERE OF INFLUENCE, MUNICIPAL SERVICE REVIEW AND COUNTY DISTRICT MOA REGARDING SERVICE WITH THE SOI

Michael LeBrun, Interim General Manager, discussed the planned LAFCO Sphere of Influence Update Municipal Service Review agenda for May 27, 2010 at 10:00 p.m. The

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Board discussed the proposed Memorandum of Agreement (MOA) (provided to the public on the back table). The Board discussed the MOA and made several suggestions for editing the MOA.

Jon Seitz, District Legal Counsel, will take the suggested modifications to the agreement to the LAFCO meeting on May 27, 2010.

At 3:20 p.m. the Board went back into Closed Session.

K. OPEN SESSION
ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came out of Closed Session at 4:30 p.m.
Jon Seitz, District Legal Counsel, announced the following:
The Board had a split Closed Session. The first portion began at 11:15 a.m. and ended at 11:45 a.m. The second portion began at 3:29 p.m. and ended at 4:30 p.m.
The Board heard an update on Items 1 & 2 of the Closed Session Agenda. The Board gave instructions to legal counsel but took no reportable action.

04:23:02 F. MANAGER'S REPORT

Michael LeBrun, Interim General Manager, thanked the Board for the opportunity of serving the District and working with an outstanding staff. He wished to specifically mention, District Engineer, Peter Sevcik, the finest engineer he has had the opportunity to work with in his career. It has been a great pleasure to work with him.
The incoming General Manager will begin on June 1, 2010.
There was a claim for \$75.00 repair which resulted from the crew repairing a water line and the pressure blew a gasket in a customer's home. Mr. LeBrun authorized the payment of the claim. The Board Secretary will remain on staff until June 30th. Candidates have been considered for the job. No offer has been made.
He reviewed that an "All Hands" meeting for the Waterline Intertie Outreach project is scheduled for June 10, 2010.

04:33:50 G. COMMITTEE REPORT

There is no Committee Report.

04:33:59 H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Nelson
He asked about the article in the paper concerning salt in the groundwater in Los Osos. Mr. Seitz gave some information.

Director Vierheilig
He will be having surgery, June 2, 2010.

Director Winn
May 20, 2010 – There was a meeting in SLO about AB 32. Follow-up meetings will be forthcoming, in particular, a meeting for all major CSD Board Presidents.
County says it will be doing an update for Land Use and Conservation Element. PDF format is available. Ordinance 3090 is critical.

ADJOURN

President Harrison adjourned the meeting at 4:50 p.m.