

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 45 Years of Service 1965 - 2010

MINUTES

OCTOBER 13, 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

DON SPAGNOLO, GENERAL MANAGER
LISA BOGNUDA, ASSIST. GENERAL MANAGER
MERRIE WALLRAVIN, SECRETARY/CLERK
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 Regular Meeting of October 13, 2010, to order at 9:00 a.m. and led the flag salute.

00:00:40

B. ROLL CALL

At Roll Call, all Board members were present.

00:01:17

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) SHERIFF COMMANDER KEN CONWAY

Update re: South County Law Enforcement Activities

Commander Conway was unable to attend this meeting.

C-2) CAL FIRE BATTALION CHIEF BILL FISHER

Update re: South County Cal Fire Activities

Battalion Chief Bill Fisher reviewed the activity report for September 2010.

- ◇ Last month they had a total of 98 calls in Nipomo.
- ◇ They did low angle training with Conoco Phillips and some confined space training with NCSD. Cal OSHA requires a permit for confined space rescue. NCSD is using Cal Fire as a rescue agency; however they cannot do permitted confined space rescue. The nearest station that could respond is 20 to 25 minutes away at the San Luis Obispo airport. Most city Public Works Departments send employees to rescue training for about \$500.00 for each employee and it qualifies them as an onsite rescue team. This is what they would recommend NCSD to do.
- ◇ They are still working on business inspections and preplans.
- ◇ They just received Captain Dave Lithum back after two lower back disk fusions, which is very hard to come back from.
The Board thanked Mr. Fisher for his report.

C-3) MIKE NUNLEY OF AECOM

Update re: Southland Wastewater Treatment Plant Upgrade

Mike Nunley, AECOM Engineering Project Manager, reviewed the report as presented in the Board packet. Jon Seitz, District Legal Counsel, and Mr. Nunley answered questions from the Board. The Board thanked Mr. Nunley for the report.

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- C-4) NCS D DISTRICT ENGINEER PETER SEVCIK
Update re: Recent Activities
Peter Sevcik, District Engineer, reviewed the report as presented in the Board packet and answered questions from the Board. The Board thanked Mr. Sevcik for the report.
- C-5) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest

Director Winn

- ◊ There has been some public curiosity about the Oceano particulate matter. The Oceano Management Oversight Committee is accepting applications for a Technical Firm that will head up two efforts in Oceano. One is for short-term or immediate mitigation for small matter blowing inland off of the dunes, which will involve intensive monitoring devices. The other contract will be for the longer-term efforts.
- ◊ Water Conservation Committee met on October 11, 2010. They are scheduling a discussion on what kind of responses we should have to a potentially severe water year.
- ◊ On October 14, 2010, the Planning Commission will be looking at NCS D's request to turn one parcel to a public lot. It should go through without any resistance.
- ◊ October 18, 2010 – SCAC Land Use Committee Meeting at 9:00 a.m. here at NCS D.
- ◊ October 25, 2010 – SCAC Meeting at 6:30 p.m. here at NCS D.
- ◊ As far as I can tell, there is clear evidence of water theft out at Maria Vista that we need to get a handle on.
- ◊ On October 5, 2010, the Board of Supervisors considered a subdivision on South Tejas, one lot to be divided into two. The project needs to be conditioned to pay the in-lieu fees for supplemental water. Title 22 fee was not in place in time of the approval. Such a requirement was assured NCS D when the County settled by creating their Ordinance §3090.

Director Eby

- ◊ As for the public lot presented to the planning commission, we need to stress to them that the tanks are going to be mostly submerged, no more than three or four feet above the ground level, and they will be painted the color of the background.
- ◊ October 14, 2010 – There will be a NMMA meeting at 10:00 a.m. here at NCS D.
- ◊ As for this month's WRAC meeting, I didn't attend so there is nothing to report.

Director Nelson

- ◊ I will be leaving the meeting today at 11:45 a.m.

Director Harrison

- ◊ There will be a memorial service for Bruce Buel on Sunday October 17th in Los Osos at the Red Barn.
- ◊ The Women's Shelter will be holding a fundraiser at the Arroyo Grande Community Center on October 23rd.
- ◊ I will not be attending the next Regular Board Meeting on October 27, 2010.

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

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00:36:43

D. CONSENT AGENDA

D-1) WARRANTS

D-2) BOARD MEETING MINUTES
SEPTEMBER 22, 2010 REGULAR BOARD MEETING
OCTOBER 1, 2010 SPECIAL MEETING

D-3) MNS TASK ORDER FOR FRONTAGE ROAD TRUNK SEWER REPLACEMENT PROJECT CONSTRUCTABILITY REVIEW AND BID PHASE SERVICES

Upon the motion of Director Winn and seconded by Director Eby, the Board unanimously approved items D-1, D-2, and D-3. There was no public comment. Vote 5-0.

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

E. ADMINISTRATIVE ITEMS

00:38:38

E-1) CONSIDER HILLSIDE TERRACE APARTMENT PROJECT VARIANCE REQUEST

Don Spagnolo, General Manager, presented the Board with a letter from Mr. William Kengel, to withdraw his proposal. Jon Seitz, District Legal Counsel, clarified that the item is on the agenda and therefore can be discussed; however, no action on this item can be taken. The Board discussed this item and Mr. Seitz answered questions from the Board. No action was taken and there was no public comment.

The Board considered item E-6 next.

01:05:42

E-6) CONSIDER PASQUINI HYDROGEOLOGIC INVESTIGATION AND GROUNDWATER MODELING AND POTENTIAL USE OF SITE FOR WASTEWATER EFFLUENT DISPOSAL AND CEQA ANALYSIS

Don Spagnolo, General Manager, introduced the item. Paul Sorenson, Principal Hydrogeologist for Fugro West, reviewed the report as presented in the Board packet. Peter Sevcik, District Engineer, Douglas Wood of Douglas Wood and Associates, and Mr. Sorenson answered questions from the Board.

The following member of the public spoke:

Collette A Hillier of Andre, Morris, & Buttery, Legal Counsel for Charles A Pasquini, Jr., (Pasquini Trust), read aloud a letter that was submitted to the Board on August 11, 2010, and August 26, 2010, opposing the use of the Pasquini Property to pond waste water. Upon the motion of Director Winn and seconded by Director Vierheilig, the Board unanimously approved the staff recommendation. There was no public comment. Vote 5-0.

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

The Board took a break from 11:20 a.m. to 11:35 a.m.

02:18:51

E-2) CONSIDER DAVIS OUTSIDE USER REQUEST FOR WATER SERVICE

The General Manager reviewed the report presented in the Board packet. Jon Seitz, District Legal Counsel, and the General Manager answered questions from the Board.

Director Nelson left the meeting at 11:40 a.m.

Upon the motion of Director Eby and seconded by Director Winn, the Board members present voted unanimously not to authorize Staff to proceed with processing the application. There was no public comment.
Vote 4-0.

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

02:38:53

E-3) CONSIDER RECOMMENDATION BY PERSONNEL COMMITTEE TO PREPARE A REQUEST FOR PROPOSAL TO REVIEW EMPLOYEE SALARY AND BENEFITS

The General Manager introduced the item. Lisa Bognuda, NCSD Finance Director, reviewed the report as presented in the Board Packet and answered questions from the Board. There was no public comment.

Upon the motion of Director Vierheilg and seconded by Director Winn the Board members present voted unanimously to approve staff recommendation limited to medical and other benefits, not salary.
Vote 4-0.

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

The Board considered Closed Session next.

02:54:02

I. CLOSED SESSION ANNOUNCEMENTS

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

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9 SMWWCD 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)
4. PUBLIC EMPLOYEE EVALUATION (GOVERNMENT CODE SECTION 54957(B)): GENERAL MANAGER

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

President Harrison adjourned to Closed Session at 12:05 p.m.

02:54:02

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

The Board came back into Open Session at 1:08 p.m. Jon Seitz, District Legal Counsel, announced that the Board heard an update on items one thru three listed above for closed session, but took no reportable action, however, item four listed above in closed session will resume after the regular agenda. There was no public comment.

02:55:47

E-4) CONSIDER RECOMMENDATION OF THE FINANCE COMMITTEE TO EXPEND SOLID WASTE FUNDS

Don Spagnolo, General Manager, introduced the item. Celeste Whitlow, Water Conservationist, reviewed the report as presented in the Board packet. Jon Seitz, District Legal Counsel, General Manager Spagnolo, and Mrs. Whitlow answered questions from the Board. There was no public comment.

Upon the motion of Director Winn and seconded by Director Vierheilg the Board members present voted to approve the 2010-2011 Solid-Waste Expenditures, with \$600 as a place holder for future Creek Days until that is amended and with a note to explore ways that the franchise fees could clearly benefit septic tank users.
Vote 3-1.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Vierheilg, and Eby	Director Harrison	Director Nelson

04:14:27

E-5) CONSIDER FORTH QUARTER REVIEW OF STRATEGIC PLAN REVIEW

Don Spagnolo, General Manager, reviewed the report as presented in the Board packet and took suggestions from the Board. The Board thanked Mr. Spagnolo for the report and directed Staff to continue with this process and fill in the blanks. There was no public comment.

04:28:58

F. GENERAL MANAGER'S REPORT

Don Spagnolo, General Manager, reviewed the Manager's Report presented in the Board packet. Mr. Spagnolo answered questions from the Board. There was no public comment. The following Board members made the following recommendations during this item:

Director Winn

- ◇ We need to get the process going again for the County to institute an In-Lieu fee for Supplemental Water.
- ◇ The County is continuing to process a General Plan Amendment for the Jack's Helping Hands Project and we want them to succeed without scuttling County Ordinance §3090.
- ◇ Look into the water thefts at Maria Vista.

- ◇ Supplemental report, on Monday, October 4, 2010, we had a 4th District Supervisor forum here at NCSD and it was very disappointing. Both candidates were weak. They didn't understand the following impacts that will affect our District:

- The Water Interline Project
- Santa Maria Ground Water Basin Litigation
- The impacts of building an Ag Cluster Subdivision on the Laetitia Property
- Seawater intrusion threatening the Basin

Director Eby

- ◇ I would like for the General Manager, District Engineer, AECOM, District Legal Counsel, to all get together and get a detailed assessment effort action plan, either using "Fast Track Scheduler" or an equivalent application that shows milestones, performing individual/organization responsibilities, event start/finish dates and illustrates the critical path. That includes the following:

- Completion of the survey
- Recommendation of the assessment
- Chances of getting a successful assessment
- When the second look will be done
- The Notice to Proceed to the County
- The assessment vote, when it will take place
- Funds to be available
- When to go out for bids
- Assignment for responsibility, so we know whose button to push to get on track

Time is of the essence, the interest rates and construction costs are going to go up.

Director Harrison

- ◇ Questioned the conclusion on the hit and run accident in District parking lot
- ◇ Would like to reiterate what Director Eby said
- ◇ We need to keep pushing hard to complete our projects
- ◇ Stay involved in the Jack Ready Park Project

04:42:37

G. COMMITTEE REPORT

September 27, 2010 Park Committee
October 4, 2010 Personnel Committee

The reports were as presented. The General Manager answered questions from the Board. There was no public comment.

04:55:00

H. DIRECTORS REQUESTS TO STAFF AND SUPPLEMENT REPORTS

The Board directed Staff to put Item four from the above closed session list on the November 10, 2010 agenda. There was no public comment.

04:55:56

ADJOURN

President Harrison adjourned the meeting at 3:10 p.m.