

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

REGULAR BOARD MEETING APRIL 6, 1994 7:00 P.M.
NIPOMO ELEMENTARY SCHOOL CAFETERIA 190 E. PRICE, NIPOMO, CA

BOARD MEMBERS

DAVID MANRIQUEZ, PRESIDENT
STEVEN SMALL, VICE PRESIDENT
KATHLEEN FAIRBANKS
ALEX MENDOZA
GORDON GRACIA

STAFF

DOUGLAS JONES, GENERAL MANAGER
DONNA JOHNSON, BOARD SECRETARY
JON SEITZ, GENERAL COUNSEL

CALL TO ORDER AND FLAG SALUTE

President David Manriquez called the meeting to order at 7:40 p.m. and led the flag salute.

ROLL CALL

Board members present at roll call were Directors Manriquez, Small, Fairbanks, Mendoza and Gracia.

APPROVAL OF MINUTES

1. REGULAR MEETING OF MARCH 16, 1994
Upon the motion of Director Small and seconded by Director Fairbanks, the Board approved the minutes of the March 16, 1994 Regular meeting.
2. ADJOURNED & SPECIAL MEETING OF MARCH 30, 1994
Upon the motion of Director Small and seconded by Director Gracia, the Board approved the minutes of the March 30, 1994 Adjourned and Special Meeting.

BOARD ADMINISTRATION

3. FORMATION OF ASSESSMENT DISTRICT NO. 93-1
Mr. Jones described the history of the Summit Station Area annexation and proposed assessment district. Jim Garing of Garing, Taylor & Assoc. reviewed the project, showing maps of proposed water lines, hydrants, etc.
Bond Counsel-Mac Brown of Brown, Diven & Hentschke explained the steps being taken and the dates of future steps to be taken in the project.
May 18, 1994 First Protest Hearing
June 1, 1994 Second Protest Hearing
He explained that notices would be mailed Thursday, April 7, 1994. A form will be included which can be returned to the District if Water System Connection Fee is not desired to be included in assessment.
May 10, 1994- Receive construction bids
May 11, 1994-Property owner Informational meeting
Engineer will update report, possibly reducing assessment. Bid results will be available.
May 18-Public Hearing
Hearing on Necessity to Condemn for Easements still needed.

- June 1-Board will decide whether to go forward with project. Notices mailed again. 30 day period to discharge assessment. Estimated 6% credit will be given for cash. Annual cost based on an approximate \$19,886 figure at a proposed 7% interest rate for 25 years would be approx. \$1,700 per year. He went on to explain the six resolutions to be decided upon at tonight's meeting.
1. Making appointments-This is a statutory requirement designating the newspaper for legal publications and establishing an improvement fund for loans and advances.
 2. Formal action adopting the boundary map.
 3. Resolution of Intention - This is the jurisdictional resolution that describes the improvements, declares the intent of the Board to proceed, actually orders the preparation of the Engineer's report which has been presented. Also, indicates that for purposes of financing, bonds will be issued.
 4. The next resolution would be approving the Engineer's Preliminary report and sets the dates, time & place for the two public hearings.
 5. Hearing on possible eminent domain proceeding
 6. Resolution calling for construction bids.

The meeting was opened to public questions.

George Jeffers - Are the protests that have been gathered thus far valid?

ANSWER - Protests should be responsive to an action. The Board has not yet declared its intention to proceed with the formation of the Special Assessment District.. That is what is proposed for this evening. Through the adoption of the resolutions this evening, the Board would be declaring its intention to form the Special Assessment District, setting the time and place for Public Hearings, thus creating the forum for the protests. Sacramento statute states that after the legislative body passes on the report (and that's what is being proposed this evening for approval is the engineer's report) the code says then that any time after the legislative body passes on the report people then can protest. Protests, to be timely, to be computed, should be filed after the legislative body passes on the protests. If people do not wish to refile, the Board will be presented with those early protests. This is from the Municipal Act of 1913 Streets and Highways Code Section 10310.

Clark Franke - Is \$500 annexation fee included in assessment amount and how much would 2500 gals. of water cost?

ANSWER-No, annexation fee is not included but the Board is looking into some way of adjusting fee for Summit Station Area.

The average water bill runs about \$20 per month. The Actual charge for 2500 gals. would be \$8.75.

Jan Busch - Is the assessment put on property tax deductible?

ANSWER-Only the interest is deductible.

Bob Blair - Could annexation fee be changed from \$500 per acre?

ANSWER-Board is looking into modifying annexation fees at a per parcel charge to fit Summit Station Area special circumstances.

Jerry Haugen - Is fire protection required by law or could it be eliminated for a lower cost?

ANSWER - Cannot have water without fire protection. Board of Supervisors, when they passed the planning standards for the Summit Station Area, indicates that there would be an urban level water system installed and that includes fire protection. In addition to that there are a myriad of legal problems where liability would go beyond all imagination without fire protection for all those involved in that system. The fire protection represents only about 15% of total cost of the project.

Norma Jeffers - Is \$19,900 + the maximum. We can only go down from there. Is that right?

ANSWER - Under these proceedings that are being initiated this evening the answer is yes. If bids come in 20-25% higher, we may not be able to go forward with the district. At this point in time it is proposed that the assessments will be able to remain the same and/or possibly be reduced based upon the existing engineer's estimate but we have not yet received bids. Bids are coming in May 10.

Question-If bids come in higher, then what?

ANSWER - If bids come in higher, district does not go forward.

Richard Torgerson - Will valves be provided in case of water line breaks?

ANSWER-Yes, there will be valves throughout the system plus a valve at your meter. A loop protection will also be provided.

Nancy Ybarra - Couldn't the District add more property to reduce each owners costs?

ANSWER-That would mean going back to square one, going back to LAFCO to start the project all over.

Mary Hodges - Is backflow device required and how much does it cost? Does the District charge a fee?

ANSWER-If property is connected to District water and there is a well on property, a backflow prevention device (RP) is required by the State and is inspected each year by the County. It is to be installed by the property owner or independent contractor at a cost unknown to District. The District does not charge for this.

There are brochures available for people to defer taxes.

Harry Gibson - Will County still approve existing fire protection even after District supplies water?

COMMENT-Most people don't need the water.

ANSWER - CDF standards for a 2 1/2 acre parcel is 500 gallons or greater per minute.

Sam Johnson - How many parcels are involved and at what cost for the project?

ANSWER-143 parcels at a construction cost of \$2.8 million.

Gene Kaye - Responded to Mr. Gibson's comment. People need water. Property values will go up.

ANSWER - Mr. Jones explained that the District water supply is probably the only viable source of water in the area. Construction costs would be comparable but assessment district process increases the costs.

Mike Pryor - Because some people feel they are being forced, what are actual rights?

ANSWER - May 18 and June 1 Public Hearing dates
Notices will be mailed with date, times and places of Public Hearings and indicating where written protest should be filed basically with the District. The Law contemplates that protests to be considered should be in writing filed prior to the conclusion of the Public Hearings. Protests for determination as to whether or not a majority protest exists is by acreage. We will also be making a protest report to the Board based on parcels. All that information will be computed and calculated starting tomorrow, and through the Public Hearings, will be made available and presented to the Board. Upon the conclusion of the Public Hearing, June 1, the Board will be asked to make a decision whether or not to proceed. If the protests do not represent less than a majority, the Board can proceed with 3 votes. If a written majority protest has been filed and if the Board did decide to proceed 4 affirmative votes would be required.

Gary Burgess - What is reasoning behind the restrictions with adequate fire protection at 500 GPM for 2 1/2 acre parcels?

ANSWER - County put requirements on standards.

Mary Hodges - Will larger parcels have more clout in protest proceedings?

ANSWER - Calculations will be made by acreage and a per parcel vote.

Blair - (Directed to audience) Can you get a loan on your property now with water situation the way it is?

Margaret McDonald - Where will plans and specifications be available?

ANSWER - Garing, Taylor & Assoc.

The following Resolutions were considered for adoption for the formation of Assessment District No. 93-1 to finance water improvements for the Summit Station Area.

Director Small wished to include the attached statement to explain his reasons for voting against each of the following resolutions.

A. RESOLUTION MAKING APPOINTMENTS

Formal appointment of the Superintendent of Streets, Newspaper for publication of items and establishing a Special Improvement Fund
Motion was made by Director Gracia, seconded by Director Fairbanks. With a 4-1 vote the Board adopted Resolution 94-507 with Director Small as the dissenting vote.

Resolution 94-507

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT MAKING APPOINTMENTS IN A SPECIAL ASSESSMENT DISTRICT

B. RESOLUTION ADOPTING PROPOSED BOUNDARY MAP (AMENDED)

Formal action approving the amended map of the Assessment District No. 93-1
Upon the motion of Director Mendoza, seconded by Director Fairbanks, the Board adopted Resolution 94-508 with a 4-1 vote with Director Small as the dissenting vote.

Resolution 94-508

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING AN AMENDED MAP SHOWING THE PROPOSED BOUNDARIES OF A SPECIAL ASSESSMENT DISTRICT

C. RESOLUTION OF INTENTION

A jurisdictional resolution under the "1913 Act" proceedings declaring intent to finance improvements through the issuance of bonds
Upon the motion of Director Mendoza, seconded by Director Gracia, the Board adopted Resolution 94-509 with a 4-1 vote with Director Small as the dissenting vote.

Resolution 94-509

RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DECLARING INTENTION AND COVERING PRELIMINARY DETERMINATION TO ORDER THE INSTALLATION OF CERTAIN IMPROVEMENTS IN A PROPOSED ASSESSMENT DISTRICT; ORDERING THE PREPARATION OF A REPORT DESCRIBING THE DISTRICT TO BE ASSESSED TO PAY THE COSTS AND EXPENSES THEREOF; AND PROVIDING FOR THE ISSUANCE OF BONDS

D. RESOLUTION PASSING THE "REPORT" AND SETTING PUBLIC HEARINGS

Preliminary approval of the Engineer's "Report" and set dates, time and place for two (2) public hearings

Upon the motion of Director Fairbanks, seconded by Director Gracia, the Board adopted Resolution 94-510 with a 4-1 vote with Director Small as the dissenting vote.

Resolution 94-510

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PASSING ON THE "REPORT" OF THE ENGINEER GIVING PRELIMINARY APPROVAL, AND SETTING A TIME AND PLACE FOR PUBLIC HEARINGS

E. RESOLUTION SETTING PUBLIC HEARING FOR RESOLUTION OF NECESSITY FOR EMINENT DOMAIN PROCEEDINGS

Establishing the possible condemnation proceedings to acquire the necessary rights-of-way easements

Upon the motion of Director Fairbanks, seconded by Director Gracia, the Board adopted Resolution 94-511 with a 4-1 vote with Director Small as the dissenting vote.

Resolution 94-511

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT SETTING HEARING FOR RESOLUTION OF NECESSITY REGARDING EMINENT DOMAIN PROCEEDINGS FOR SUMMIT STATION WATER PROJECT KNOWN AS ASSESSMENT DISTRICT NO. 93-1

F. RESOLUTION CALLING FOR CONSTRUCTION BIDS

Authorizing the bidding on the works of improvements

Upon the motion of Director Mendoza, seconded by Director Fairbanks, the Board adopted Resolution 94-512 with a 4-1 vote with Director Small as the dissenting vote.

Resolution 94-512

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT REFERENCING PREVAILING WAGE SCALE AND DIRECTING CALL FOR CONSTRUCTION BIDS

4. PUBLIC COMMENTS

OTHER BUSINESS

5. APPROVAL OF WARRANTS

Upon motion of Director Small and seconded by Director Mendoza, the Board approved the warrants presented at the April 6, 1994 meeting.

6. DIRECTOR COMMENTS

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7. STUDY SESSION ON DEVELOPMENT OF NEW OFFICE BUILDING
Upon motion of Director Small, seconded by Director Fairbanks the Board adjourned this item to April 19, 1994 at 7:30 p.m. at 261 W. Dana, Suite 100.

At 8:50 p.m. upon motion of Director Small and seconded by Director Fairbanks, President David Manriquez adjourned to a study session at 7:30 p.m. April 19, 1994 at 261 W. Dana.

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April 6, 1994

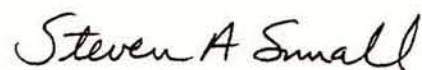
While I believe I have participated adequately during our Board's meeting discussion periods, and provided justification commensurate with my stance on all issues presented for Board consideration, because so much time has elapsed since the inception of the Summit Station annexation process, I feel it is necessary, for purposes of clarification, and perhaps to satisfy my desire to "set the record straight," I want to briefly explain my rationale for voting the way I have on this project.

A couple of years ago, the Nipomo district residents were faced with a decision regarding whether to participate in the State Water Project or not. Prior to the first vote, I was in favor of State Water, because I recognized, as the County did in its Coastal Branch EIR (which the NCSD endorsed), that San Luis Obispo County was in an overdraft situation, and that a supplemental water supply would be required to meet the demands of the population estimates described in the General Plan. The proposed Summit Station annexation became a topic of discussion during the time we were considering the SWP, and as we all remember, the voters voted down State Water. I felt then (and still do), that NCSD should not extend water services to areas outside the District when it is debatable whether or not we will be able to provide water to even the projected customer base within District boundaries throughout the next 30 years. Consequently, I voted "NO" on annexing the Summit Station area.

I recognize that some, and possibly many, of the Summit Station residents feel they are in an emergency water situation, and I respect them for having the conviction to pursue what they feel is best for them and their families - but similarly, I hope those same residents, will respect me for trying to uphold what I believed the majority of the "Pre-Summit Station" residents wanted me to do: 1) To recognize that this County was likely in an overdraft condition, 2) to uphold the vote of the people regarding non-participation in the State Water Project, and 3) vote against large annexations of this kind until an acceptable supplemental water supply is identified, or a Master Water Use Plan is adopted for our area.

However, this Board voted, 4-1 (I was the only dissenter) to go ahead with the Summit Station Annexation. Since that time, we have conducted numerous votes (possibly in excess of 100) on Summit Station related issues. Some were Resolutions of some significance, but many of those Board votes were to formalize relatively minor and/or administrative actions related to the Summit Station Annexation Project, such as selection of a particular Firm to provide Bond Counsel services or Financial Consulting services, obtaining Board consensus to mail a particular letter to LAFCO, and who can forget the 10 or more Board actions that were required to sort out the "Lot 40 vs. Lot 41" controversy. I began to realize, that for me to vote "NO" on every, single, issue regarding this project would be to "Grudge Vote," a practice that I feel is not indicative of honorable Board conduct, and a practice I believe may not be in the best interest of the District and its residents. After all, while I had voted against annexing the Summit Station area, the Board had voted 4-1 to pursue the annexation - for me to vote "NO" on, for instance, selecting Bond Counsel, could be interpreted as me being desirous of the District proceeding without Bond Counsel. Consequently, I chose to evaluate each of the more minor, administrative issues on their own merits and liabilities, and vote accordingly.

However, this meeting, and those that follow, are critical, pivotal, meetings scheduled to consider Resolutions that will authorize the financing of the Summit Station Annexation, accept the Engineer's Report, consider construction bids, hear the protests of those that are against the project, etc. To reiterate my general opposition to the concept of annexing and subsequently extending water services to properties outside current District boundaries until our current water supply is assured, and until a supplemental water supply that is acceptable to the public is identified and obtained, or until a Master Water Use Plan is developed for our area, I feel compelled to continue my practice to vote "NO" on all substantive issues regarding the Summit Station Project.



Steven A. Small

Vice President, NCSB Board of Directors