

NIPOMO COMMUNITY SERVICES DISTRICT

AGENDA

MARCH 6, 2002

REGULAR MEETING 9:30 A.M.
BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

RICHARD MOBRAATEN, PRESIDENT
MICHAEL WINN, VICE PRESIDENT
ROBERT BLAIR, DIRECTOR
JUDITH WIRSING, DIRECTOR
CLIFFORD TROTTER, DIRECTOR

STAFF

DOUGLAS JONES, GENERAL MANAGER
DONNA JOHNSON, SEC. TO THE BOARD
JON SEITZ, GENERAL COUNSEL

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson.

A. CALL TO ORDER AND FLAG SALUTE

B. ROLL CALL

C. PUBLIC COMMENTS PERIOD

PUBLIC COMMENTS

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board. Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.

D. ADMINISTRATIVE ITEMS (The following may be discussed and action may be taken by the Board.)

D-1) STATUS OF DISTRICT SERVICE CAPACITIES

Review Board letter from Oct. 3, 2001 Agenda & Water Code 350 re: District service capacities

D-2) REQUEST FOR SERVICE - D010239 (KLUVER) (Cont from 2/20/02)

Request for water & sewer service for an office building @ 250 W. Dana St.

D-3) ORDINANCE TO ESTABLISH A VARIANCE PROCEDURE

Proposed ordinance to establish a variance policy

D-4) MANDATORY GARBAGE SERVICE

Consideration of having mandatory garbage service in the District

Garbage
Time

E. OTHER BUSINESS

E-1) UPDATE BOARD OF DIRECTORS BY-LAWS (Cont from 2/20/02)

Resolution to change meeting time to 9:00 a.m., limit length of meeting, and establish adjustability of meeting dates

F. CONSENT AGENDA *The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the Consent Agenda and will be considered separately. Questions or clarification may be made by the Board members without removal from the Consent Agenda. The recommendations for each item are noted in parenthesis.*

F-1) WARRANTS [RECOMMEND APPROVAL]

F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]

Minutes of January 23, 2002 Regular Board meeting

Minutes of February 20, 2002 Regular Board meeting

G. MANAGER'S REPORT

- MISSION STATEMENT
- AWWA ANNUAL CONFERENCE
- ROBERTSON - GENERAL PLAN AMENDMENT

H. COMMITTEE REPORTS

I. DIRECTORS COMMENTS

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

A. SMVWCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.

B. NCSD VS STATE DEPT OF HEALTH SERVICES CV 990716


C. SAVE THE MESA VS. NCSD CV 020181

CONFERENCE WITH NEGOTIATOR GC§54956.8

D. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR- DOUG JONES, COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE

ADJOURN

The next regular Board Meeting will be held on March 20, 2002 at 9:00 a.m.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES 
DATE: MARCH 6, 2002

AGENDA ITEM
MAR 06 2002



STATUS OF DISTRICT SERVICE CAPACITIES
WATER CODE §350

ITEM

Review Board of District service capacities and the Water Code §350

BACKGROUND

At the regular Board meeting held on February 20, 2002, some of the Board members were concerned about the District's responsibility and its capacity to provide water and sewer services to the community. Enclosed is legal counsel's republished memo on the District's responsibility for providing service. The District's service capacities were discussed at a regular Board meeting held on October 3, 2001. That information is enclosed for the Board's review.

Exhibit C - Title 22 calculations, as of September 2001, the bottom number of availability was 452. The present availability, as of February 25, 2002, is 386 or a reduction of 66 services.

In reviewing the activities of the District since 1995, it is found that the average rate of water connections per year was 3.8% or 94 per year.

The District anticipates, in the 2002-2003 fiscal year, to have between 500-800 gpm additional production on line, one million gallons of additional storage constructed, and improvements completed in the distribution system. As in-fill develops, the District will need additional infrastructure to meet future peaking demands.

Water Code § 350 - Water Shortages

Enclosed is the District's Legal Counsel's review of the Water Code §350, along with a copy of the actual code sections for the Board's review.

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MICHAEL W. SEITZ
KAROL VOGT

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JOHN L. SEITZ
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GERALD W. SHIPSEY
(RETIRED)

MEMORANDUM
1 of 2

TO: BOARD OF DIRECTORS
NIPOMO COMMUNITY SERVICES DISTRICT

RE: DELIVERY OF WATER SERVICE WITHIN THE
DISTRICT BOUNDARIES

FROM: JON S. SEITZ, DISTRICT LEGAL COUNSEL

DATE: February 26, 2002 (Republished)

ATTACHMENTS: CALIFORNIA CODE OF REGULATIONS TITLE 22

I. INTRODUCTION

The Nipomo Community Services District (District) is a California Community Service District organized pursuant to Government Code Section 61000 *et. seq.* The District, pursuant to Government Code Section 61600 (a) and its Rules and Regulations serves potable water to approximately 9,000 customers (approximately 3,400 connections) in the unincorporated area of San Luis Obispo County. At buildout, the San Luis Obispo County South Area General Plan estimates that the District will provide water service to 14,000 customers (approximately 5,000 connections).

The District relies solely on the groundwater basin for its source of water. This groundwater basin is customarily referred to as the Nipomo Hydrologic Subarea of the Santa Maria Groundwater Basin (herein "the Nipomo HSA").

II. ISSUES TO BE ADDRESSED

1. District's duty to provide water to its residents;
2. Permitting new service connections; and

3. Rules and regulations governing District water service

1. DISTRICT'S DUTY TO PROVIDE WATER TO ITS RESIDENTS

The District as an appropriator has a duty to provide District water service to its residents. This duty is found both in the California Constitution and California Case Law.

Article X, Section 5 of the California Constitution states:

“The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner prescribed by law.”

In the case of People ex rel. City of Downey v. Downey County Water District, (1962) 202 Cal App 2d 786, the court stated the public agency's obligation to provide water to its residents as follows:

“All water which has been dedicated to public use is imposed with a trust and the beneficiaries of that trust are the users of the waters; thus the transferee of a water company or a water system has the same duties and obligations as the transferor, and the inhabitants of the district have the right to receive water from the city to the same extent they formerly had (Durant v. City of Beverly Hills, 39 Cal.App.2d 133 [102 P.2d 759]; 35 Cal.Jur.2d 25); and the city must assume the duty to supply water without discrimination.”

2. PERMITTING NEW WATER CONNECTIONS

The District water system must meet certain pressure and resource standards in order for the District to permit new connections. Section 64568 of Title 22 of the California Code of Regulations states the limitation as follows:

“A new service connection may be added to a distribution system only if the water system will comply with Section 64562 after the new service connection is added and adding the new service connection will not cause pressure at an existing service connection to be reduced below the standards set in Section 64566.”

Section 64562, in turn, states in relevant part:

s 22-64562. Quantity of Supply.

(a) Sufficient water shall be available from the water sources and distribution reservoirs to supply adequately, dependably and safely the total requirements of all users under maximum demand conditions before agreement is made to permit additional service connections to a system.

(b) To ascertain this, first determine the total capacity of the existing source by procedures prescribed in Section 64563 and determine the total storage volume of the existing distribution reservoirs. Then determine the needed source capacity and the needed storage volume by procedures prescribed in Section 64564. The total available source capacity shall not be less than the needed source capacity.

(c) The requirements of this section shall apply to an entire public water system and to each pressure zone within a public water system.

(1) Requirements for an entire public water system shall be determined from the total source capacity, total storage volume and the total number of service connections.

(2) Requirements for a particular pressure zone shall be determined from the total water supply available from the water sources and interzonal transfers directly supplying the zone, from the total storage volume within the zone and from the number of service connections within the zone.

Section 646566 states in relevant part:

s 22-64566. System Pressure.

(a) Changes in distribution systems shall be designed to maintain an operating pressure at all service connections of not less than 20 pounds per square inch gauge (psig) (140 kiloPascals gauge (kPag)) under the following demand conditions:

(1) User maximum hour demand.

(2) User average day demand plus design fire flow.

(b) In a public water system supplying users at widely varying elevations, a water supplier may furnish a service to a user which does not comply with (a) if the user is fully advised of the conditions under which minimum service may be expected and the user's agreement is secured in writing. This waiver shall be applicable only to individual service connections.

(c) Water mains shall be designed to have at least five psig (35 kPag) pressure throughout any buried length of the main except when the main is removed from service for repairs or maintenance. This requirement shall not apply to short lengths of water main near reservoir inlets and outlets provided:

(1) The water main is on premises owned, leased or controlled by the water supplier; or

(2) The prior review and written approval of the Department is obtained.

In the case of Residents for Adequate Water et al., v. Redwood Valley California Water District, (1995) 34 Cal App.4th 1801, the California Courts had the opportunity to apply the Title 22 requirements to a County water District that continued to permit new service connections to be added to its water system when the District did not possess a water source capacity sufficient to supply the needs of its users under maximum demand conditions as required by Title 22. The California Appellate court did not hesitate to uphold the trial court's order prohibiting further connections finding that:

“The California Waterworks Standards-the administrative regulations promulgated pursuant to the Safe Drinking Water Act-specifically provide that sufficient water shall be available from water sources and distribution reservoirs to supply adequately, dependably and safely the total requirements of all users under maximum demand conditions before agreement is made to permit additional service connections to a system. (Cal. Code Regs., tit. 22, § 64562, subd. (a); see Cal. Code Regs., tit. 22, ch. 16.) A new service connection may be added to a distribution system only if the water system will comply with section 64562 after the new service connection is added. (Cal. Code Regs., tit. 22, § 64568. These statutes and regulations clearly impose an obligation on the district to determine whether an adequate water supply exists to serve existing needs before new service connections may be added and prohibit new service connections if these state requirements are not met.”

3. RULES AND REGULATIONS

Special Districts only have the powers that are given to it by statute (City of Downey supra). The powers of a Community Services District are found in Government Code Section 61600. The District currently provides the following services that are authorized under Government Code Section 61600:

- (a) To supply its inhabitants with water for domestic use, irrigation, sanitation, industrial use, fire protection and recreation pursuant to Government Code Section 61600 (a).
- (b) The collection, treatment, disposal of sewage, waste and storm water of the District and its inhabitants pursuant to Government Code Section 61600 (b).
- (c) Street lighting pursuant to Government Code Section 61600 (f).

The District powers do not include the broad legislative and executive powers over zoning and land use (City of Downey supra). Zoning and land use authority within the District is delegated to the County of San Luis Obispo: (Government Code Section 65100).

The District may establish, by ordinance, “reasonable rules and regulations”

- (1) governing the use of District facilities and property including imposing reasonable charges for the use thereof (Government Code Sections 61621.5), and
- (2) to establish fees, rates, and charges (Government Code Section 61621).

The phrase “reasonable rules and regulations” is analyzed on three levels

- (1) The District must follow statutory guidelines in establishing the ordinances. For example, rate setting regulations generally require hearings and studies.
- (2) The rules and regulations must comply with the Substantive Due Process Doctrine found in the U.S. Constitution Amendment 14 and the California Constitution Article 1 Section 7. The Substantive Due Process Doctrine

prohibits the District from taking action which is arbitrary or unreasonably deprives a person of life, liberty or property.

- (3) The rules and regulations must not violate the equal protection clause of the United States Constitution Amendment 14 and the California Constitution Article 1 Section 7. The Equal Protection doctrine requires the District to treat similarly situated persons in a like manner.

The District pursuant to Government Code Section 61621.5 and 61621 and other relevant Code Sections has established rules and regulations relating to conditions of service, billing, connections and rates and charges (see Nipomo Community Service District Code).

The District may pursuant to Government Code Section 61621, Title 22 of the California Code of Regulations, and based on studies of its current water commitments (current will-serve letters and intent-to- serve letters) and its water resource capacity adopt further reasonable rules and regulations* relating to future water connections.

*See Memorandum addressing Water Shortages

End of memo

T:\JC\M\NCSD\Water Service Opinion \memo121200

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MEMORANDUM
2 of 2

TO: DOUG JONES, GENERAL MANAGER
NIPOMO COMMUNITY SERVICES DISTRICT BOARD OF
DIRECTORS

RE: ADDRESSING WATER SHORTAGES

FROM: JON S. SEITZ, DISTRICT LEGAL COUNSEL

DATE: February 28, 2002

At the District's Board meeting of February 20, 2002, I was directed to review and present to the District Board of Directors the District's options in addressing water shortages.

BACKGROUND

By way of background, the Board has discussed the limitations of approving new water connections under the authority of §64568 of Title 22 of the California Administrative Codes. That memorandum is included in the Staff Report.

DISTRICT'S OPTIONS IN ADDRESSING WATER SHORTAGES

The exception to the general rule that the District must provide water upon request, under reasonable rules and regulations, occurs when the District has declared a water shortage emergency pursuant to Water Code §350. Which provides as follows:

"The governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, may declare a water shortage emergency condition to prevail within the area served by such distributor **whenever it finds and determines that the**

ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.” (Emphasis added)

Absent an immediate interruption in service by a water system failure, the Water Shortage Emergency Declaration may only be adopted after the District has conducted a duly noticed public hearing that provides the District’s customers with an opportunity to be heard and to protest that declaration. (Water Code §351 and 352.)

§353 of the Water Code addresses regulations and restrictions that the District must adopt if a Declaration of a Water Shortage Emergency is approved and provides in relevant part:

“When the governing body has so determined and declared the existence of an emergency condition of water shortage within its service area, it **shall** thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.” (Emphasis added).

The phrase “Conserve The Water Supply” implies that the District is empowered to maintain appropriate reserves of water to maintain future needs and that it need not run out of water before taking conservation measures. (See Swanson v. Marine Municipal Water District. App. First District. 1976) 128 Cal Reporter 485.

Further §354 of the Water Code provides the District with authority to establish priorities for water that is not necessary to supply water for domestic use, sanitation and fire protection. §354 states:

“After allocating and setting aside the amount of water which in the opinion of the governing body will be necessary to supply water needed for domestic use, sanitation, and fire protection, the regulations may establish priorities in the use of water for other purposes and provide for the allocation, distribution, and delivery of water for such other purposes, without discrimination between consumers using water for the same purpose or purposes.”

Water Code §355 identifies the duration of the regulations and restrictions:

“The regulations and restrictions shall thereafter be and remain in full force and effect during the period of the emergency and until the supply of water available for distribution within such area has been replenished or augmented.”


Water Code §356 provides for discontinuance of service for violation of the District’s rules and regulations and provides:

“The regulations and restrictions may include the right to deny applications for new or additional service connections, and provision for their enforcement by discontinuing service to consumers willfully violating the regulations and restrictions.”

And lastly, Water Code §358 provides the standard that the Board of Directors must meet when making findings under Government Code §350 (Supra) and provides as follows:

“Nothing in this chapter shall be construed to prohibit or prevent review by any court of competent jurisdiction of any finding or determination by a governing board of the existence of an emergency or of regulations or restrictions adopted by such board, pursuant to this chapter, on the ground that any such action is fraudulent, arbitrary, or capricious.”

END OF MEMO

TO: BOARD OF DIRECTORS
FROM: DOUG JONES 
DATE: OCTOBER 3, 2001

AGENDA ITEM

OCT 05 2001



DISTRICT SERVICE CAPACITIES

ITEM

Review District water and sewer capacities

BACKGROUND

There has been some discussion as to the District's water and sewer present capacities and the needs for the future. Staff has prepared exhibits about the District facilities.

Exhibit A

Projects the build-out requirements for water supply for the Town and Black Lake Divisions. These projections are based on the SLO County Planning Department South County Area Plan build-out projections of population and dwelling units. From this information, the Town Division (at build-out) would require a water source of approx. 3700 acre feet per year. The Black Lake Division would require about 450 acre feet. Therefore, the District would need a total of approx. 4100-4200 AFY to meet the County's General Plan Land Use requirements.

Exhibit B

Reviews the well production capacity need for build-out projections. The present well capacity of the Town and the Black Lake Divisions (4256 and 935 AFY respectively) is sufficient to meet the County General Plan build-out projections. It should be known that as the District grows, primarily from in-fill, additional infrastructure will need to be built to meet peaking demands, i.e. additional storage, transmission mains, production, etc.

The District's present capacity at the Town and the Black Lake Divisions' wastewater facilities is sufficient to handle the build-out requirements of the County General Plan.

Of the District's sewer lift stations, the Tefft Street lift station will need to be upgraded to accommodate the Phase II expansion of the high school as well as the in-fill in the eastern portion of the District.

Exhibit C

Review of Title 22 calculations - The District's production and storage capacity calculations were based on Sections 64562, 64563 & 64564 of Title 22 requirements. The District's present production and storage capacity will allow the District's Town Division to provide service to slightly over 4000 connections. The Black Lake Division has sufficient production for build-out.

RECOMMENDATION

Information item. No actions is required by the Board.

**NIPOMO COMMUNITY SERVICES DISTRICT
 WATER PRODUCTION
 BUILD-OUT PROJECTION**

From San Luis Obispo County Planning Department Report - South County Area Plan
 Revised MAY 27, 1999
 From Table A-2

AREA	BUILD-OUT DWELLING	BUILD-OUT POPULATION	BUILD OUT DATE
Nipomo Urban Area	7678	24,032	2010+

The Nipomo Community Services District boundary does not include the total urban area of the South County Area Plan.

Due to a greater dwelling density of the Land Use Categories within the Nipomo Community Services District service area, it is estimated that the District would serve approximately 65% of the build-out of the urban area.

Estimated NCS D water needs:

Build-Out Dwellings 7678 X 65% ≈ 4990 or approx. 5000 dwellings
 Average consumption per water account years 1995-2000 = 0.61 AFY

TOWN DIVISION

Projected urban water needs at build-out ≈ 5000 X 0.61 =	3050 AFY
Projected rural area needs ≈ 300 units X 0.61	183 AFY
Add approximately 15% for normal District operations	<u>485 AFY</u>
	<u>3718 AFY</u>

BLACK LAKE DIVISION

Projected urban water needs at build-out ≈ 600 units X 0.61 AFY/account =	366 AFY
Add ≈ 24% for landscape irrigation and District operations	<u>88 AFY</u>
	<u>454 AFY</u>

NCSW WELL PRODUCTION CAPACITY

WELL PRODUCTION CAPACITY vs. BUILD-OUT PROJECTIONS

Town Division

7 wells \approx 3300 gpm = 5320 AFY

Assume 80% normally available $80\% \times 5320 = 4256$ AFY

Town Division build-out projection = 3718 AFY

Therefore present capacity can meet build-out projections.

Present capacity in excess of build-out needs \approx 500* AFY

Black Lake Division

2 wells \approx 725 gpm = 1169 AFY

Assume 80% normally available $80\% \times 1169 = 935$ AFY

Black Lake build-out projection = 446 AFY

Present capacity in excess of build-out needs \approx 490 AFY

As the District grows, additional infrastructure will need to be built to meet peaking demands.

DISTRICT SEWER CAPACITY

Wastewater Treatment Facilities

TOWN DIVISION

Present design capacity 0.9 MGD (Million Gallons per day)

Present average monthly flows \approx 0.4 MGD

Present number of sewer services 1770

BLACK LAKE

Present design capacity 0.2 MGD

Present average monthly flows 0.07mgd

Present number of sewer services 536

Both the Southland and the Black Lake wastewater facilities have unused capacity to handle future users.

LIFT STATIONS

The District presently operates 12 sewer lift stations. The Lucia Mar Unified School District EIR on the new high school indicated that the beginning of Phase II of the high school development the Tefft St. lift station will need to be expanded. Funds have been budgeted in this year's budget for design expansion of the lift station with construction planned for next year.

TITLE 22 CALCULATIONS
 SECTIONS 64562, 64563 & 64564

TOWN DIVISION

Present Production Capacity
 For 7 wells, Capacity (Q) = 3300 gpm
 Present Storage 4 storage tanks (V) = 2.2+ Mil Gal.
 Existing services (Sept 01) ≈ 2800

From Title 22, Article 2. General Requirements

To determine required flows (Q) at Max. Day Demand

Formula $Q = Q_o (2.5 - 1.5 V/V_o)$

Where Q & V are present District Production & Storage capacity Q = 3300 gpm V = 2.2 MG
 Q_o & V_o are production and storage numbers from charts at 2800 services and at 65°F

- For 2800 service connections from Charts Q_o = 3000 V_o = 1.4 MG
 $Q = 3000 [2.5 - 1.5 (2.2/1.4)] = 3000 (0.143) = 428 \text{ gpm}$
- Projection for 4000 service connections from charts Q_o = 4200 gpm V_o = 1.9 MG
 $Q = 4200 [2.5 - 1.5 (2.2/1.9)] = 4200 (0.763) = 3205 \text{ gpm}$ Presently Q = 3300 gpm

The District's present production and storage capacity would allow slightly in excess of 4000 service connections.

The District recorded water pressures exceeding Title 22 minimum pressure requirement of 20 psi.

Present water reserve capacity (fees paid but no meter set) is 366 services
 Number of Intent-to-Serve* letters issued for water service is 382 services

Present Title 22 calculation would allow the District to have ≈ 4000 services

Service allowed	Approx. ≈	4000
Present services	≈	<2800>
Reserve capacity	≈	<366>
Intent-to-Serve	≈	<382>
Available	≈	452

*District is not obligated to provide service until all fees are paid.

Notes of Decisions

In general 1
Rate structure 2

1. In general

"Water shortage emergency condition," within meaning of statute authorizing governing body of distributor of public water supply to declare water shortage emergency condition whenever it finds and determines that ordinary demands and requirements of water consumers cannot be satisfied without depleting water supply to the extent there would be insufficient water for human consumption, sanitation, and fire protection, includes both immediate emergency in which district is presently unable to meet its customers' needs and threatened water shortage in which district determines that its supply cannot meet increased future demand. *Building Industry Assn. v. Marin Mun. Water Dist.* (App. 1 Dist. 1991) 1 Cal.Rptr.2d 625, 235 Cal.App.3d 1641, review denied.

§ 353. Regulations and restrictions; standards

Notes of Decisions

In general 1
Rate structure 2

1. In general

Water Code did not require municipal water district to consider and make findings on domestic water needs of both its current and potential consumers before adopting moratorium prohibiting new water connections in district's service area. *Building Industry Assn. v. Marin Mun. Water Dist.* (App. 1 Dist. 1991) 1 Cal.Rptr.2d 625, 235 Cal.App.3d 1641, review denied.

Water Code does not require municipal water district to grant some sort of priority or preference for potential domestic water users over current nondomestic users before imposing ban on new service connections. *Building Industry Assn. v. Marin Mun. Water Dist.* (App. 1 Dist. 1991) 1 Cal.Rptr.2d 625, 235 Cal.App.3d 1641, review denied.

Use of word "conserve," in this section requiring that when municipal water district has declared existence of

Municipal water district is empowered to anticipate future water shortage and to impose appropriate regulations and restrictions where, lacking such control, its water supply will become depleted and it will be unable to meet needs of its consumers. *Swanson v. Marin Municipal Water Dist.* (App. 1 Dist. 1976) 128 Cal.Rptr. 485, 56 Cal.App.3d 512.

2. Rate structure

Municipal utility district's rate structure increasing cost of water per cubic foot for increased usage was not arbitrary, capricious, or discriminatory and had evidentiary support, even though single-family residences in two regions used less than 50% of total water provided to districts' single-family consumers, but paid over 75% of drought surcharges, and even though water conservation continued at 29% when rate structure was suspended and increased to only 34% upon reinstatement of the structure. *Brydon v. East Bay Mun. Utility Dist.* (App. 1 Dist. 1994) 29 Cal.Rptr.2d 128, 24 Cal.App.4th 178, review denied.

emergency condition of water shortage, it must adopt such regulations and restrictions as will "conserve the water supply," implies that water district is empowered to maintain appropriate reserve of water to meet future needs and that it need not empty its reservoir before undertaking conservation measures. *Swanson v. Marin Municipal Water Dist.* (App. 1 Dist. 1976) 128 Cal.Rptr. 485, 56 Cal.App.3d 512.

2. Rate structure

Municipal utility district's rate structure increasing cost of water per cubic foot for increased usage was not arbitrary, capricious, or discriminatory and had evidentiary support, even though single-family residences in two regions used less than 50% of total water provided to districts' single-family consumers, but paid over 75% of drought surcharges, and even though water conservation continued at 29% when rate structure was suspended and increased to only 34% upon reinstatement of the structure. *Brydon v. East Bay Mun. Utility Dist.* (App. 1 Dist. 1994) 29 Cal.Rptr.2d 128, 24 Cal.App.4th 178, review denied.

§ 354. Priorities

Cross References

Public water system's written verification of a sufficient water supply, sufficient water supply defined, consideration of specific water use allocations, see Government Code § 66478.7.

§ 355. Duration of regulations and restrictions

Law Review and Journal Commentaries

Water hookup moratoria. 27 *Hastings L.J.* 763 (1976).

In general 1

1. In general

Use of terms "replenished" and "augmented" in this section requiring that conservation regulations and restrictions imposed by municipal water district when it has

declared water shortage emergency condition to exist should remain in effect until the water supply has been "replenished or augmented," clearly envisions that when undepleted supply cannot be augmented to meet increasing demand, water shortage emergency may be declared to prevail within the service area. *Swanson v. Marin Municipal Water Dist.* (App. 1 Dist. 1976) 128 Cal.Rptr. 485, 56 Cal.App.3d 512.

§ 356. Regulations and restrictions; denial of applications; discontinuing service for violation

Law Review and Journal Commentaries

Water hookup moratoria. 27 *Hastings L.J.* 763 (1976).

Notes of Decisions

In general 1

Concurrent and conflicting exercise of power 2
Place of use 3

1. In general

Water Code does not require municipal water district to grant some sort of priority or preference for potential domestic water users over current nondomestic users before imposing ban on new service connections. *Building Industry Assn. v. Marin Mun. Water Dist.* (App. 1 Dist. 1991) 1 Cal.Rptr.2d 625, 235 Cal.App.3d 1641, review denied.

Provision of § 350 authorizing imposition of restrictions upon use of district water in any emergency caused by either threatened or existing water shortage clearly indicates that threatened water shortage is one type of emergency contemplated by phrase "water shortage emergency," as used in provisions of § 350 relating to municipal

water district declarations of water shortage emergency condition. *Swanson v. Marin Municipal Water Dist.* (App. 1 Dist. 1976) 128 Cal.Rptr. 485, 56 Cal.App.3d 512.

2. Concurrent and conflicting exercise of power

City's limitation on water supplied outside of city limits pursuant to water appropriation permit did not conflict with water moratoria statutes, and thus, the service limitation under water rights law was not preempted by the water moratoria statutes. *County of Del Norte v. City of Crescent City* (App. 1 Dist. 1999) 84 Cal.Rptr.2d 179, 71 Cal.App.4th 965.

3. Place of use

Water moratoria statutes do not limit a municipality to restricting the area for new services within the "place of use" under an existing water rights permit only by declaring a water shortage emergency condition. *County of Del Norte v. City of Crescent City* (App. 1 Dist. 1999) 84 Cal.Rptr.2d 179, 71 Cal.App.4th 965.

§ 357. Regulations and restrictions; conflict with other laws; public utilities commission approval

Law Review and Journal Commentaries

Water hookup moratoria. 27 *Hastings L.J.* 763 (1976).

Notes of Decisions

Concurrent and conflicting exercise of power 1

1. Concurrent and conflicting exercise of power

City's limitation on water supplied outside of city limits pursuant to water appropriation permit did not conflict

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§ 358. Judicial review

Law Review and Journal Commentaries

Water hookup moratoria. 27 *Hastings L.J.* 763 (1976).

Notes of Decisions

1. In general

Petitioners' disagreement with municipal water district's moratorium on new service connections was insufficient to entitle them to mandamus relief. *Building Industry Assn. v. Marin Mun. Water Dist.* (App. 1 Dist. 1991) 1 Cal.Rptr.2d 625, 235 Cal.App.3d 1641, review denied.

Even in absence of statute confining jurisdiction of boards of directors of municipal water districts regarding declaration of water moratoria to capacity so that its actions are reviewable only by means of ordinary mandate. *Swanson v. Marin Municipal Water Dist.* (App. 1 Dist. 1976) 128 Cal.Rptr. 485, 56 Cal.App.3d 512.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES *D*
DATE: MARCH 6, 2002

AGENDA ITEM

MAR 06 2002



REQUEST FOR SERVICE
D010239
KLUVER

ITEM

Request for water & sewer service for an office building @ 250 W. Dana St.

BACKGROUND

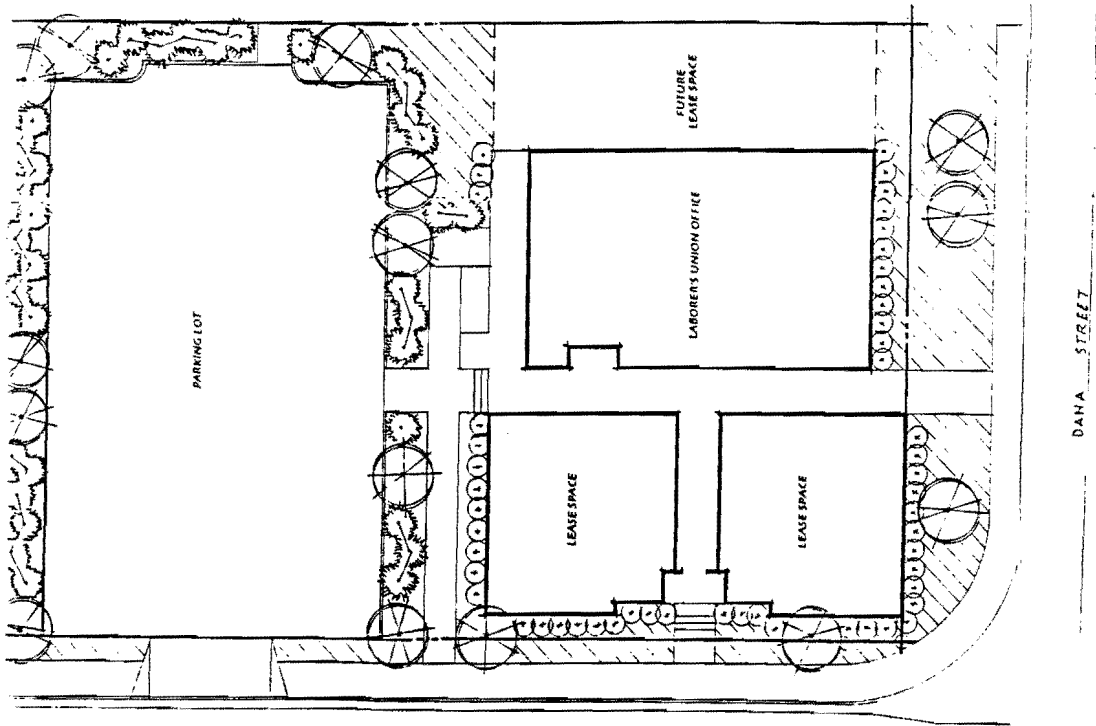
This item was continued from the February 20, 2002 Board meeting. The District received a request from Ms. Lou Kluver for water and sewer service to the property of the International Laborer's Union Local 402, located across the street from the District office at 250 W. Dana Street. An Intent-to-Serve letter may be issued for the proposed project with the following conditions:

1. Enter into a Plan Check and Inspection Agreement and pay the appropriate fees.
2. Submit improvement plans in accordance with the District Standards and Specifications for review and approval.
3. Pay all appropriate District water, sewer and other fees associated with this development.
4. Construct the improvements required and submit the following:
 - a. Reproducible "As Builts" - A mylar copy and digital format disk (Auto Cad) which includes engineer, developer, tract number and water and sewer improvements
 - b. Offer of Dedication
 - c. Engineer's Certification
 - d. A summary of all water and sewer improvement costs
5. This Intent-to-Serve Letter will expire two years from date of issuance.

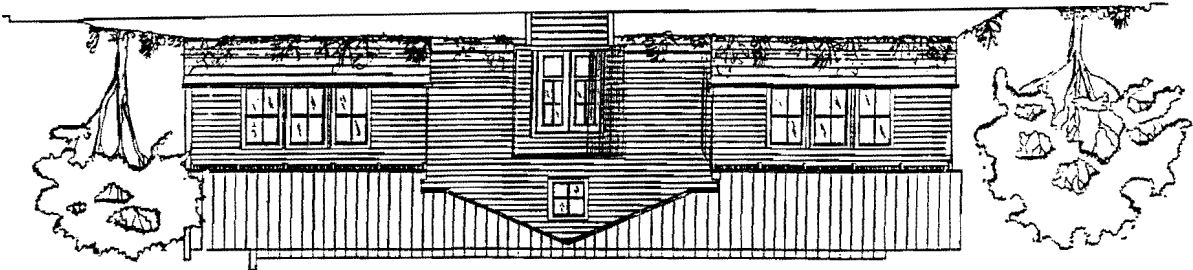
RECOMMENDATION

Staff recommends that your Honorable Board approve the Intent-to-Serve letter for the office building D010239 with the above mentioned conditions.

SITE PLAN



OFFICE BUILDING



**LABORER'S INTERNATIONAL UNION
LOCAL 402**

D 010239

805 56
805 B

Louisa
Anne
Kluver

D 010239

architect

January 15, 2002

Nipomo Community Services District
148 South Wilson Street
Nipomo, Ca. 93444

RE: Laborers International Union
Local 402
Office Building
250 Dana Street

ATTEN: General manager

Attached is a set of preliminary drawings for an office building at the corner of Dana and Wilson Streets for the Laborers Union. We would like to request preliminary will serve letters for both water and sewer. We are in the process of applying for a Minor Use Permit, and as part of the application we were told that preliminary Will Serve letters are required.

Please keep me informed of the timing or any other issue involved in this process. You have any questions or require any further information, please feel free to contact me. Thank you

Sincerely,

Lou Kluver
Lou Kluver


RECEIVED

JAN 15 2002

NIPOMO COMMUNITY
SERVICES DISTRICT

979
Osos Street
Suite A-2
San Luis Obispo
California
93401

TO: BOARD OF DIRECTORS
FROM: DOUG JONES *D*
DATE: MARCH 6, 2002

AGENDA ITEM
MAR 06 2002 

ORDINANCE TO ESTABLISH A VARIANCE POLICY

ITEM

Review a proposed ordinance which would establish a variance policy for the District.

BACKGROUND

At the regular meeting held on February 20, 2002, your Honorable Board considered establishing a limited variance policy. After much discussion, the Board directed staff to return a draft ordinance, which is attached for your review.

RECOMMENDATION

After your Honorable Board reviews the draft policy, you may direct staff to finalize the proposed variance ordinance and bring back to the next meeting for the first reading.

Board 2002/Variance policy.DOC

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2002-Variance**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING VARIANCE PROCEDURES**

WHEREAS, the Nipomo Community Services District ("District") Board of Directors held a public hearing on February 20, 2002 to consider establishing a limited variance policy; and

WHEREAS, as a result of the February 20, 2002 hearing, the District Board of Directors directed staff to return an ordinance that would establish limited variance procedures that would apply to District infrastructure requirements for water and sewer service.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Nipomo Community Services District as follows:

Section 1. Authority.

This Ordinance is enacted pursuant to Government Code §§61600 (a) and (b) and §61621.5.

Section 2.

Section 1.04.030 is added to Chapter 1.04 of the District Code as follows:

1.04.030 Appeals

A. Applicability.

A property owner affected by a District requirement or regulation to construct water and/or sewer improvements as a condition to receiving District service may appeal to the District Board of Directors for a variance from the District requirement or regulation as provided herein.

B. When Permitted.

1. Variances may be granted only when, because of special circumstances applicable to the property including its size, shape, topography, location or surroundings, the strict application of the provisions referenced in Section A, above would create practical difficulties or unnecessary hardship.
2. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not expressly authorized or "permissible" by the provisions of the San Luis Obispo County Code or the District Code.
3. A variance shall not be granted to waive a District rate or charge that is directly related to District services.

C. Application.

1. Application for a variance shall be filed in writing with the District General Manager by the owner, or his authorized agent such as the owner's engineer or architect. Applications shall set forth and state fully the name and address of the person to receive notice of the hearing referenced in Section E, below, acknowledge receipt of these procedures, the reasons

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2002-_____**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING VARIANCE PROCEDURES**

and grounds for the variance and shall contain such information as the General Manager or his/her designee shall prescribe.

2. Every application for a variance shall be accompanied by a drawing or a plot plan, in duplicate, drawn to scale and showing the lot, the proposed location of building or buildings, the location of District water mains and sewer mains, proposed water and sewer laterals to provide District services to the building or buildings, and such other information as may be necessary to provide for the intelligent consideration of the variance request.

D. Filing Fee.

Before accepting an application for a variance the General Manager shall charge and collect a filing fee. Such fee shall be as established by resolution of the District Board of Directors.

E. Hearing.

1. Upon receipt of the application in proper form, the General Manager shall place the item on the Board of Directors Agenda for public hearing within a reasonable period of time.
2. Notice of such hearing shall be given through the U.S. Mail with postage prepaid using the address identified in the application.
3. The Board of Directors shall, on the date set, hold a public hearing upon the application for the variance.

F. Finding Required for Approval.

The Board of Directors may grant a variance based on information shown in the application and verified by staff report or upon further information brought forth during the course of the hearing, the Board of Directors must find that because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the provisions referenced in Section A above:

1. Could create practical difficulties or unnecessary hardship.
2. That granting of said variance would not tend to defeat the purpose of the particular rule or regulation.

G. Grant or Denial.

1. From the facts presented with the application at the public hearing the Board of Directors may grant the requested variance in whole or in part and with or without conditions. If the findings referenced in Section F above cannot be made such application shall be denied.
2. Every action or decision of the Board of Directors authorizing a variance shall be by resolution adopted by a majority of the Directors setting forth the written findings of fact required by Section F above.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2002-_____

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING VARIANCE PROCEDURES

3. The General Manager shall within ten (10) days of the Board of Directors' decision, mail a notice of the District's decision to the person designated in the application and any other person who has requested notice.

H. Conditions.

1. The Board of Directors in approving a variance, may set forth in its decision conditions which it deems necessary. The Board of Directors may also require such security and guarantees as the Board may deem necessary to insure that such terms and conditions are being or will be complied with.
2. Every variance granted by the Board of Directors shall contain as a condition thereof the following:

"The variance allowed is hereby conditioned upon the privileges granted herein being utilized within one hundred eighty (180) days after the effective date hereof, and should the privilege authorized hereby fail to be executed or utilized or where some form of construction work is involved, such construction has not actually commences within such one hundred eighty (180) days, and is not diligently prosecuted to completion, the authority shall become null and void and any privilege or variance granted hereby shall lapse.

The Board of Directors may in its discretion and upon the written request of the applicant, for good cause, grant a reasonable extension of time in addition to the one hundred eighty (180) days herein provided. Such requests for extension shall be made to the General Manager and within twenty (20) days prior to the expiration of the one hundred eighty (180) day period."

Section 3. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 4. Effect of headings

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2002-_____

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING VARIANCE PROCEDURES

Section 5. Inconsistency

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations or any County Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, including §408.190 of the District Code, Motions, Resolutions, Rules, and Regulations are hereby repealed.

Section 6. Effective Date

This ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage it shall be posted in three (3) public places with the names of the members voting for and against the ordinance and shall remain posted thereafter for at least one (1) week. The ordinance shall be published once with the names of the members of the Board of Directors voting for and against the ordinance in a newspaper of general circulation within the District.

Introduced at a regular meeting of the District Board of Directors held on _____, 2002, and passed and adopted by the District Board of Directors on the _____ day of _____, 2002, by the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
CONFLICTS:

Richard Mobraaten,
President of the Board
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

DONNA K. JOHNSON
Secretary to the Board

JON S. SEITZ
District Legal Counsel

TO: BOARD OF DIRECTORS
FROM: DOUG JONES *DJ*
DATE: MARCH 6, 2002

AGENDA ITEM **04**
MAR 06 2002

MANDATORY GARBAGE SERVICE

ITEM

Consideration to have mandatory garbage service in the District

BACKGROUND

The District, through LAFCO, has exercised its latent power to provide solid waste services within the District boundaries. The Nipomo Garbage Company is proposing a rate increase for this area and it was discussed if a mandatory garbage collection was implemented, what effects that would have on the service rates. Attached is correspondence from Mr. Tom Martin, Controller of the Nipomo Garbage Co. indicating the proposed rate without mandatory service would be 14.11% increase versus with mandatory garbage collection of 5.15% increase.

There are approx. 360 water customers who are not presently taking garbage service. If mandatory garbage service was adopted, then with the 360 new potential customers, the appropriate proposed rate increase could be implemented.

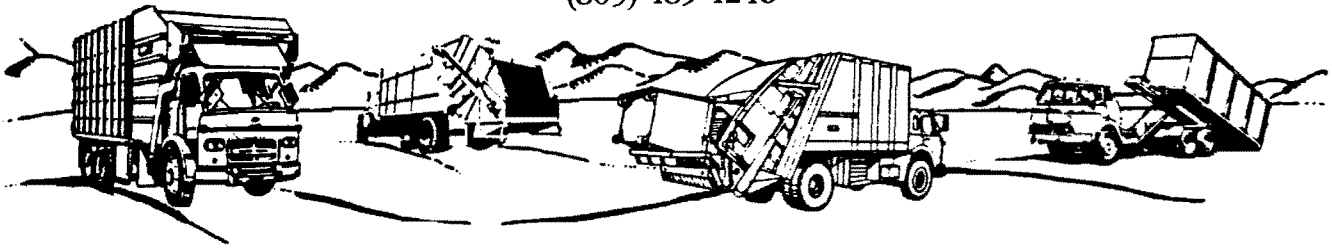
RECOMMENDATION

If your Honorable Board desires mandatory garbage service within the District, it is recommended that your Honorable Board direct staff to proceed with the appropriate documents and procedures to implement mandatory garbage service within the District.

Board 2002/Garbage Service.DOC

South County Sanitary Service Inc.

(805) 489-4246



Tri-City Disposal Service

(805) 489-3534

Nipomo Community Services District

Doug Jones

P.O. Box 326

Nipomo, CA 93444-0326

RE: Pending rate increases

874 Grand Avenue

Grover Beach, California 93433

Nipomo Garbage Company

(805) 489-3534

2-21-2002

IF THE NCSD DOES NOT WANT TO ENACT MANDATORY GARBAGE

The rates would be identical to the County approved rates for the Nipomo bluff area or an across the board increase of 14.19%. The County changed variability last time. You have the same service levels of garbage, recycling, and greenwaste. As you will see on attachment #1 all of the South County cities had double digit increase in Dec 2001 and a small inflationary increase that will become effective 4-1-2002.

	NCSD CURRENT RATES		NIPOMO BLUFF RATES
1 can waste wheeler	\$11.45	10.92%	\$12.70
2 can waste wheeler	\$16.40	22.56%	\$20.10
3 can waste wheeler	\$21.50	27.91%	\$27.50
	NCSD CURRENT RATES		NCSD NEW RATES
1 can waste wheeler	\$11.45	14.19%	\$13.07
2 can waste wheeler	\$16.40	14.19%	\$18.73
3 can waste wheeler	\$21.50	14.19%	\$24.55

IF THE NCSD WANTS TO ENACT MANDATORY GARBAGE WITH TAX LIEN

Based on NCSD's 3,400 water meter count, I have identified 359 non subscribers within the districts boundaries. Enactment of mandatory garbage service with a tax lien method for collecting unpaid bills will do the following:

	NCSD CURRENT RATES		NCSD NEW RATES
1 can waste wheeler	\$11.45	5.15%	\$12.04
2 can waste wheeler	\$16.40	5.15%	\$17.24
3 can waste wheeler	\$21.50	5.15%	\$22.61

The last rate increase for NCSD customers on garbage was 4-1-2000.

Sincerely,

Tom Martin, Controller
Nipomo Garbage

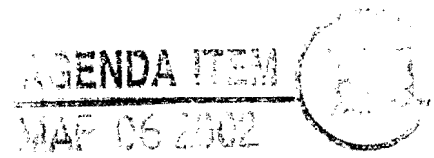
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FEB 21 2002

RA. INCREASES

	NIPOMO BLUFF	RURAL AG & AVILA	OTHER COUNTY	PISMO BEACH	ARROYO GRANDE	GROVER BEACH
BASE YEAR REQUEST	14.92%	14.92%	14.92%	14.92%	14.92%	14.92%
GRANTED 4-1-1997	-2.82%	-2.82%	-2.82%			
GRANTED 3-1-1998	-0.55%	-0.55%	-0.55%	-0.22%	-0.22%	
GRANTED 4-1-2000	-0.79%					
BLUE & GREEN WW'S						2.91%
	10.76%	11.55%	11.55%	14.70%	14.70%	17.83%
FRANCHISE FEE	90.00%	90.00%	90.00%	94.00%	94.00%	90.00%
GRANTED 12-1-01	11.96%	12.83%	12.83%	15.64%	15.64%	19.81%
INTERIM REQUEST	2.01%	2.01%	2.01%	2.01%	2.01%	2.01%
	2.01%	2.01%	2.01%	2.01%	2.01%	2.01%
	90.00%	90.00%	90.00%	94.00%	94.00%	90.00%
GRANTED 4-1-02	2.23%	2.23%	2.23%	2.13%	2.13%	2.23%

TO: BOARD OF DIRECTORS
FROM: DOUG JONES *D*
DATE: MARCH 6, 2002



UPDATE BOARD OF DIRECTORS BY-LAWS

ITEM

Resolution to change meeting time to 9:00 a.m., limit length of meeting, and establish adjustability of meeting dates

BACKGROUND

At the Regular Meeting held on February 6, 2002, the Board of Directors of the Nipomo Community Services District reviewed the Board's By-Laws. They instructed staff to review the By-Laws, make adjustments, as directed by the Board, and insert staff's input. A draft is attached. The changes are indicated by a vertical line on the right column.

RECOMMENDATION

After the Board has discussed the changes and possible additions, direct staff to finalize and bring back to a later meeting for adoption.

Board 2002ByLaws Update.DOC

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2002-By-Laws**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ESTABLISHING BOARD BY-LAWS**

WHEREAS, the Board of Directors of Nipomo Community Services District (District) is committed to providing excellence in legislative leadership; and

WHEREAS, the District is a member of the Special District Risk Management Authority (**SDRMA**); and

WHEREAS, **SDRMA** has adopted a Credit Incentive Program whereby the District can receive a one point credit for the adoption of Board Policies and Procedures (Director By-Laws); and

WHEREAS, the District can receive an annual one point credit for the annual review and re-adoption of the Director Bylaws.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Nipomo Community Services District as follows:

1. The Nipomo Community Services District Board of Directors By-Laws (2002 update) attached hereto as Exhibit "A" are hereby approved and adopted.
2. All prior Director Bylaws, Resolutions and Policies of the District that are inconsistent with the Board of Director By-Laws (2002 update) attached hereto as Exhibit "A" are hereby repealed.

Upon motion of Director _____, seconded by Director _____ on the following roll call vote, to wit:

AYES: Directors

NOES:

ABSENT:

ABSTAIN:

the foregoing resolution is hereby passed and adopted this 6TH day of March, 2002.

RICHARD MOBRAATEN
President of the Board

ATTEST:

APPROVED:

DONNA K. JOHNSON
Secretary to the Board

JON S. SEITZ
District Legal Counsel

NIPOMO COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTOR
2002 UPDATE
BYLAWS
(ATTACHMENT "A" TO RESOLUTION 2002-_____)

1. OFFICERS OF THE BOARD OF DIRECTORS

1.1 The officers of the Board of Directors are the President and Vice President.

1.2 The President of the Board of Directors shall serve as chairperson at all Board meetings. He/She shall have the same rights as the other members of the Board in voting, introducing motions, resolutions and ordinances, and any discussion of questions that follow said actions.

1.3 In the absence of the President, the Vice President of the Board of Directors or his/her designee shall serve as chairperson over all meetings of the Board. If the President and Vice President of the Board are both absent, the remaining members present shall select one of themselves to act as chairperson of the meeting.

1.4 The President and Vice President of the Board shall be elected annually at the last regular meeting of each calendar year.

1.5 The term of office for the President and Vice President of the Board shall commence on January 1 of the year immediately following their election.

2. MEETINGS

~~2.1~~ ~~2.1~~ ~~Subject to holiday and scheduling conflicts, Regular~~ regular meetings of the Board of Directors shall commence at ~~10:30~~ 9:00 a.m on the first and third Wednesday of each calendar month in the Board Room at the District Office currently located at 148 South Wilson, Nipomo, CA. *The Board of Directors reserves the right to cancel or designate other dates and times for Director meetings due to scheduling conflicts and holidays.*

2.2 Special Meetings.

A. *Special meetings may be called by the President or three (3) members of the Board of Directors with a minimum of twenty-four (24) hours public notice. Special meeting Agendas shall be prepared and distributed pursuant to the procedures of the Brown Act by the General Manager or the Administrative Assistant;*

Or: (choose A or B)

B. *Special meetings may be called at any time by the President of the Board of Directors, or by a majority of the members of the Board, by delivering written notice to each member of the Board and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the Board of Directors. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the Clerk or Secretary of the Board a written waiver of notice. The waiver may be given by telegram. The written*

NIPOMO COMMUNITY SERVICES DISTRICT
DIRECTOR BYLAWS
2001 UPDATE
PAGE 2

notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

2.32 Members of the Board of Directors shall attend all regular and special meetings of the Board unless there is good cause for absence.

2.4 *No action or discussion may be taken on an item not on the posted agenda; provided, however, matters deemed to be emergencies or of an urgent nature may be added to the agenda under the procedures of the Brown Act. Pursuant to the Brown Act:*

- (a) Board Members may briefly respond to statements or questions from the public;*
- (b) Board Members may, on their own initiative or in response to public questions, ask questions for clarification, provide references to staff or other resources for factual information, or request staff to report back at a subsequent meeting;*
- (c) A Board Member or the Board itself may take action to direct staff to place a matter on a future agenda.*
- (d) Directors may make brief announcements or make a brief report on his/her own activities under the Director Comment portion of the Agenda.*

2.54 The President, or in his/her absence the Vice President (or his/her designee), shall be the presiding officer at District Board meetings. He/She shall conduct all meetings in a manner consistent with the policies of the District. He/She shall determine the order in which agenda items shall be considered for discussion and/or actions taken by the Board. He/She shall announce the Board's decision on all subjects. He/She shall vote on all questions and on roll call his/her name shall be called last.

2.65 A majority of the Board shall constitute a quorum for the transaction of business. A majority of the Board is sufficient to do business, however motions must be passed unanimously if only three attend. When there is no quorum for a regular meeting, the President, Vice President, or any Board member shall adjourn such meeting, or, if no Board member is present, the District Secretary shall adjourn the meeting.

2.76 A roll call vote shall be taken upon the passage of all ordinances and resolutions, and shall be entered in the minutes of the Board showing those Board members voting aye, those voting no and those not voting or absent. A roll call vote shall be taken and recorded on any vote not passed unanimously by the Board. Unless a Board member states that he or she is not voting because of a conflict of interest and steps down from the dais prior to the discussion of the item, his or her silence or vote of abstention shall be recorded as an affirmative vote.

2.87 Any person attending a meeting of the Board of Directors may record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding that the recording cannot continue without noise, illumination, or obstruction of view that constitutes or would constitute a disruption of the proceedings.

2.98 All video tape recorders, still and/or motion picture cameras shall remain stationary and shall be located and operated from behind the public speakers podium once the meeting begins. The President retains the discretion to alter these guidelines, including the authority to require that all video tape recorders, still and/or motion picture cameras be located in the back of the room.

2.10 *Generally, meeting business, other than closed session items, should be completed by 11:30 a.m*. If at that time the Board has not concluded its business, it will review the balance of*

NIPOMO COMMUNITY SERVICES DISTRICT
DIRECTOR BYLAWS
2001 UPDATE
PAGE 3

scheduled business to determine by majority vote whether to extend the meeting or continue consideration of the remaining items to another meeting.

**Time inserted as example only.*

3. AGENDAS:

3.1. The General Manager, in cooperation with the Board President, shall prepare an agenda for each regular and special meeting of the Board of Directors. Any Director may call the General Manager and request an item to be placed on the regular meeting agenda no later than 4:30 o'clock p.m. one week prior to the meeting date.

3.2 A block of 20 minutes time shall be set aside to receive general public comment. Comments on agendized items should be held until the appropriate item is called. Unless otherwise directed by the President, public comment shall be presented from the podium. The person giving public comment shall state his/her name and *whether or not he/she lives within the District boundary their general place of residence* prior to giving his/her comment. Public comment shall be directed to the President of the Board and limited to three minutes unless extended or shortened by the President in his/her discretion.

3.3 Those items on the District Agenda which are considered to be of a routine and non-controversial nature are placed on the "Consent Agenda". These items shall be approved, adopted, and accepted, etc. by one motion of the Board of Directors; for example, approval of Minutes, approval of Warrants, various Resolutions accepting developer improvements, minor budgetary items, status reports, and routine District operations.

- (a) Board members may request that any item listed under "Consent Agenda" be removed from the "Consent Agenda", and the Board will then take action separately on that item. A member of the public will be given an opportunity to comment on the "Consent Agenda"; however, only a member of the Board of Directors can remove an item from the "Consent Agenda". Items which are removed ("pulled") by members of the Board for discussion will typically be heard after other "Consent Agenda" items are approved unless a majority of the Board choose an earlier or later time.
- (b) A Board member may ask questions on any item on the "Consent Agenda". When a Board member has a minor question for clarification concerning a consent item which will not involve extended discussion, the item may be discussed for clarification and the questions will be addressed along with the rest of the "Consent Agenda". Board members are encouraged to seek clarifications prior to the meeting if possible.
- (c) When a Board member wishes to pull an item simply to register a dissenting vote, the Board member shall inform the presiding officer that they wish to register a dissenting vote without discussion. These items will be handled along with the rest of the Consent Agenda, and the District Secretary will register a "no" vote in the minutes.

4. PREPARATION OF MINUTES AND MAINTENANCE OF TAPES

NIPOMO COMMUNITY SERVICES DISTRICT
DIRECTOR BYLAWS
2001 UPDATE
PAGE 4

4.1 The minutes of the Board shall be kept by the District Secretary and shall be neatly produced and kept in a file for that purpose, with a record of each particular type of business transacted set off in paragraphs with proper subheads;

4.2 The District Secretary shall be required to make a record only of such business as was actually passed upon by a vote of the Board and, except as provided in Section 3.3 below, shall not be required to record any remarks of Board Members or any other person;

4.3 Any Director may request for inclusion into the minutes brief comments pertinent to an agenda item, only at the meeting in which the item is discussed.

4.4 The District Secretary shall attempt to record the names and general place of residence of persons addressing the Board, the title of the subject matter to which their remarks related, and whether they spoke in support or opposition to such matter; and

4.5 Whenever the Board acts in a quasi-judicial proceeding such as in assessment matters, the District Secretary shall compile a summary of the testimony of the witnesses.

4.6 Any tape or film record of a District meeting made for whatever purpose at the direction of the District shall be subject to inspection pursuant to the California Public Records Act. District tape and film records may be erased ninety (90) days after the taping or the recording.

5. MEMBERS OF THE BOARD OF DIRECTORS

5.1 Directors shall prepare themselves to discuss agenda items at meetings of the Board of Directors. ~~Information may be requested from staff or exchanged between Directors before meetings.~~

5.2 *Information may be requested from staff or exchanged between Directors before meetings. Information that is requested or exchanged shall be distributed through the General Manager, and all Directors will receive a copy of all information being distributed.*

~~5.2 Information that is exchanged before meetings shall be distributed through the General Manager, and all Directors will receive all information being distributed.~~

5.33 Directors shall at all times conduct themselves with courtesy to each other, to staff and to members of the audience present at Board meetings.

5.44 Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and opinions, but without being disagreeable. Once the Board of Directors takes action, Directors should commit to supporting said action and not to create barriers to the implementation of said action.

5.5 *Except during open and public meetings the use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the Board of Directors to develop a collective concurrence as to action to be taken on an item by the Board of Directors is prohibited.*

NIPOMO COMMUNITY SERVICES DISTRICT
DIRECTOR BYLAWS
2001 UPDATE
PAGE 5

6. AUTHORITY OF DIRECTORS

6.1 The Board of Directors is the unit of authority within the District. Apart from his/her normal function as a part of this unit, Directors have no individual authority. As individuals, Directors may not commit the District to any policy, act or expenditure.

6.2 Directors do not represent any fractional segment of the community but are, rather, a part of the body which represents and acts for the community as a whole.

6.3—The primary responsibility of the Board of Directors is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are to be delegated to professional staff members of the District.

6.4 *Generally, the President is the designated representative of the Board of Directors to communicate established District policy and positions to the public or other governmental agencies.*

7. DIRECTOR GUIDELINES

7.1 Board Members, by making a request to the General Manager or Administrative Assistant, shall have access to information relative to the operation of the District, including but not limited to statistical information, information serving as the basis for certain actions of Staff, justification for Staff recommendations, etc. If the General Manager or the Administrative Assistant cannot timely provide the requested information by reason of information deficiency, or major interruption in work schedules, work loads, and priorities, then the General Manager or Administrative Assistant shall inform the individual Board Member why the information is not or cannot be made available.

7.2 In handling complaints from residents, property owners within the District, or other members of the public, Directors are encouraged to listen carefully to the concerns, but the complaint should be referred to the General Manager for processing and the District's response, if any..

7.3 Directors, when seeking clarification of policy-related concerns, especially those involving personnel, legal action, land acquisition and development, finances, and programming, should refer said concerns directly to the General Manager.

7.4 When approached by District personnel concerning specific District policy, Directors should direct inquiries to the General Manager or Administrative Assistant. The chain of command should be followed.

7.5 Directors and General Manager should develop a working relationship so that current issues, concerns and District projects can be discussed comfortably and openly.

7.6 When responding to constituent request and concerns, Directors should respond to individuals in a positive manner and route their questions to the General Manager, or in his/her absence, to the Administrative Assistant.

7.7 Directors are responsible for monitoring the District's progress in attaining its goals and objectives, while pursuing its mission.

8. DIRECTOR COMPENSATION

NIPOMO COMMUNITY SERVICES DISTRICT
DIRECTOR BYLAWS
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8.1 Each Director is authorized to receive one hundred dollars (\$100.00) as compensation for each regular, adjourned or special meeting of the Board attended by him/her and for each day's service rendered as a Director by request of the Board.

8.2 Each Director is authorized to receive fifty dollars (\$50.00) as a compensation for each meeting other than regular, adjourned or special meetings or other function attended by him/her and each half day's service rendered as a Director at the request of the Board.

8.3 In no event shall Director compensation exceed \$100 per day.

8.4 Director compensation shall not exceed six full days in any one calendar month.

8.5 Each Board Member is entitled to reimbursement for their expenses incurred in the performance of the duties required or authorized by the Board.

(a) It is the policy of the District to exercise prudence with respect to hotel/motel accommodations. It is also the policy of the District for Board members and staff to stay at the main hotel/motel location of a conference, seminar, or class to gain maximum participation and advantage of interaction with others whenever possible. Actual hotel/motel costs shall be reimbursed. Personal phone calls are not reimbursable.

(b) Any Director traveling on District business shall receive in addition to transportation and lodging expenses, a per diem allowance to cover ordinary expenses such as meals, refreshments and tips. The amount set for per diem shall be considered fair reimbursement and the Director shall neither be required to account for use of the per diem, return the unused portions, nor claim additional expenses for these items. The per diem shall include \$10.00 for breakfast, \$10.00 for lunch and \$20.00 for dinner for a daily total of \$40.00.

9. COMMITTEES

9.1 Ad Hoc Committees

The Board President shall appoint such ad hoc committees as may be deemed necessary or advisable by himself/herself and/or the Board. The duties of the ad hoc committees shall be outlined at the time of appointment, and the committee shall be considered dissolved when its final report has been made.

9.2 Standing Committees

(a) The Board may create standing committees at its discretion. Standing committees shall be advisory committees to the Board of Directors and shall not commit the District to any policy, act or expenditure. Each standing committee may consider District related issues, on a continuing basis, assigned to it by the Board of Directors. Committee members of the shall be appointed by the Board of Directors.

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- (b) All standing committee meetings shall be conducted as public meetings in accordance with the Brown Act and Sections 2,3 and 4 of these Bylaws. Summary notes for each meeting of each committee shall be forwarded to the NCSD Board of Directors as a public record.

10. CORRESPONDENCE DISTRIBUTION POLICY

Time permitting, the following letters and other documents shall be accumulated and delivered to the Board of Directors on Monday of each week and/or with agenda packet.

- 10.1 All letters approved by the Board of Directors and/or signed by the President on behalf of the District; and
- 10.2 All letters and other documents received by the District that are of District-wide concern as determined by District staff.

11. CONFLICTS AND RELATED POLICY

State laws are in place which attempt to eliminate any action by a Board Member or the District which may reflect a conflict of interest. The purpose of such laws and regulations is to insure that all actions are taken in the public interest. Laws which regulate conflicts are very complicated. The following provides a brief policy summary of various conflict related laws. Directors are encouraged to consult with District Legal Counsel and/or the FPPC at ~~(916) 322-5660~~ 1-800-ASK-FPPC (1-800-275-3772), prior to the day of the meeting, if they have a question about a particular agenda item.

11.1 Conflict of Interest

Each Director is encouraged to review the District Conflict Code on an annual basis. The general rule is that an official may not participate in the making of a governmental decision if it is: (1) reasonably foreseeable that the decision will have a (2) material financial effect on the (3) official or a member of his or her immediate family or on an economic interest of the official, and (4) the effect is distinguishable from the effect on the public generally. Additionally, the FPPC regulations relating to interests in real property have recently been changed. If the real property in which the Director has an interest is located within 500 feet of the boundaries of the property affected by decision, that interest is now deemed to be directly involved in the decision.

11.2 Interest in Contracts, Government Codes Section 1090

The prohibitions of Government Code Section 1090 provide that the Board of Directors may not contract with any business in which another Board member has a financial interest.

11.3 Incompatible Office

The basic rule is that public policy requires that when the duties of two offices are repugnant or overlap so that their exercise may require contradictory or inconsistent action, to the detriment to the other public interest, their discharge by one person is incompatible with that interest.

12. EVALUATION OF CONSULTANTS

NIPOMO COMMUNITY SERVICES DISTRICT
DIRECTOR BYLAWS
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~~The District Consultants, including the District Legal Counsel and District Consulting Engineer, shall be evaluated annually during months of May and June of each year. The District's legal counsel shall be evaluated by the Board of Directors annually during the months of May and June of each year. The District's consulting engineer shall be evaluated by the General Manager during the months of May and June of each year and reported to the Board of Directors during the month of July of each year.~~

13. CONTINUING EDUCATION

Members of the Board of Directors are encouraged to attend educational conferences and professional meetings when the purposes of such activities is to improve District operation. Subject to budgetary constraints, there is no limit to the number of Directors attending a particular conference or seminar when it is apparent that their attendance is beneficial to the District.

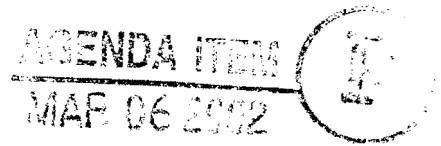
14. BOARD BY-LAW REVIEW POLICY

Subject to 3.1 the Board By-law Policy shall be reviewed annually at the first regular meeting in February. The review shall be provided by District Counsel and ratified by Board action.

15. RESTRICTIONS ON RULES

The rules contained herein shall govern the Board in all cases to which they are applicable, and in which they are not inconsistent with State or Federal laws.

RESOLUTION 2001-BY LAWS



TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MARCH 6, 2002

CONSENT AGENDA

The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the Consent Agenda and will be considered separately. **Questions or clarification may be made by the Board members without removal from the Consent Agenda.** The recommendations for each item are noted in parenthesis.

- F-1) WARRANTS [RECOMMEND APPROVAL]
- F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]
 - Minutes of January 23, 2002 Regular Board meeting
 - Minutes of February 20, 2002 Regular Board meeting

WARRANTS MARCH 6, 2002

AGENDA ITEM 
MAR 05 2002

HAND WRITTEN CHECKS

NONE

COMPUTER GENERATED CHECKS

Warrants will be presented later. Lisa, who prints the checks, was gone to classes on Thursday and Friday.

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

JANUARY 23, 2002

REGULAR MEETING 9:30 A.M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

RICHARD MOBRAATEN, PRESIDENT
MICHAEL WINN, VICE PRESIDENT
ROBERT BLAIR, DIRECTOR
JUDITH WIRSING, DIRECTOR
CLIFFORD TROTTER, DIRECTOR

STAFF

DOUGLAS JONES, GENERAL MANAGER
DONNA JOHNSON, SEC. TO THE BOARD
JON SEITZ, GENERAL COUNSEL

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson.

A. CALL TO ORDER AND FLAG SALUTE

President Mobraaten called the meeting to order at 9:30 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all Board members were present.

C. PUBLIC COMMENTS PERIOD

PUBLIC COMMENTS

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board. Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.

The following members of the public spoke:

Vince McCarthy, 194 E. Dana, Nipomo - suggested that the Board appeal the decision of the Board of Supervisors concerning the Woodlands project.

President Mobraaten took Item D-2 next because D-1 needed to be postponed.

D. ADMINISTRATIVE ITEMS (The following may be discussed and action may be taken by the Board.)

D-1) PUBLIC HEARING

REVIEW AND ADOPT NEGATIVE DECLARATION WITH MITIGATION MEASURE REGARDING CONSTRUCTION OF FACILITIES INCLUDING WATER PIPELINE AND WELLS TO SERVE TRACTS 1802 & 1856 (MARIA VISTA DEVELOPMENT)

Continuance of Dec. 12, 2001 meeting review Draft Initial Study/Mitigated Negative Declaration of infrastructure to Tracts 1802 & 1856

See D-2. This item was postponed until the presenter arrived.

Mr. Doug Wood from Douglas Wood and Associates presented information on the Draft Initial Study/Mitigated Negative Declaration and addressed the letter from the County Planning Department.

President Mobraaten opened the meeting to a Public Hearing to review the Draft Initial Study/Mitigated Negative Declaration of the infrastructure for Tract 1802 and 1856.

The following members of the public spoke:

Nora Jenaé, 692 Beverly Drive, Nipomo - Urged Board to publish Negative Declarations on major projects. Stated that changing well sites changes the impact. Water wells are going dry. District should not be taking on new development.

Bill Robinson, 2092 Curtis Place, Arroyo Grande - Read from letter included in the Board packet and attached to the Minutes as Exhibit A and urged the Board to do a full EIR.

John Snyder, 662 Eucalyptus Rd., Nipomo - read from a letter he handed to the Board and is attached to the Minutes as Exhibit B.

Jesse Hill, 1910 Grant Ave, Arroyo Grande - handed a packet of letters to the Board including letter to John McKenzie from SLO-COG, letter to Richard Marshall, Development Services Department from SLO County Engineering Department, and one from Doug Jones to John McKenzie, attached to the Minutes as Exhibit C.

Item D-1) continued

Herb Kandel, 776 Inga Rd., Nipomo - Stated that NCSD Board is making a significant planning decision. Board has not provided evidence that changing well sites would change the rate of flow to wells in the area. Impacts of off-site water sources have not been adequately evaluated. County staff and supervisors have not reviewed sufficiently. The project was approved with on-site water only. Concerned about the lack of supportive data for Negative Dec. Feels that CEQA would require environmental review of issues early in the process. Concerned with growth-inducing impact and NCSD needs to consider GPA amendments. Urged the Board to not accept the Negative Declaration and to do a complete EIR.

Eric Benham, Trincon Inc, 124 W. Main St. #C, Santa Maria - Recapped the story of how the County directed him to go to the NCSD for service.

Vince McCarthy, 194 E. Dana, Nipomo - Thanked Mr. Seitz for taking control of meeting.

The Public Comment Period was closed.

Legal Counsel, Jon Seitz, reviewed the history of project and commented that the project was fully entitled before it came before the District for possible annexation. The Board discussed the project at length. Mr. Wood answered questions from the Board.

Director Winn's comments: It is ironic that no-one has mentioned that, with the deletion of Parcel 1808, this development will have 38 fewer homes with less water required than when it was originally approved.

Non-issues that have been raised

- Nipomo wells going dry. Nipomo wells in bad water areas have always gone dry at times.
- Overdraft is not an issue in this project but of course is a matter for concern. Does not affect this decision.
- The *depression* is not the ground sinking. We would not be pumping if it were.
- *Appropriators are in litigation*. Everyone is in litigation. No one is excluded. The water master will decide.
- *Growth-inducing effects* not significant in this project because it is an entitled project. Growth is already built in and approved. *Pipeline down Orchard* - District already has 9 miles of water pipes through areas that have no growth and have not had any significant growth next to them. This area goes through rural lands. It is zoned 20 acre minimums. It may induce some very optimistic people who try to get General Plan amendments to increase density. Then the community can stand up to say no. We ran a water line through an entitled area toward the high school and there has been no growth. The Planning Department induces growth. Question is not whether or not to have a pipeline but if this pipeline will require an EIR and go ahead and be built afterwards. Or do we find there is no significant reason for denying it at this time? Either way the pipeline will be built.

Director Blair feels this will be good for the District and Nipomo. *Roads?* - We have no control over roads.

Director Wirsing is concerned about the cumulative effect of several projects pumping water. Would like to understand why an EIR not necessary.

Director Trotter asked Director Winn to explain his statement that overdraft is not an issue. Director Winn said in this context where pumping would be about 300 gpm within the District into our system has little significance.

Director Trotter asked if Director Winn felt that the magnitude of pumping was insignificant.

Director Winn said something like Woodlands is tremendously greater and raises that issue to a level of significance.

Item D-1) continued

Director Wirsing said that there are cumulative effects with the new high school and other projects coming in and believes an EIR is necessary to protect this Board and this community.

Director Trotter said 300 gallons may be insignificant but they have a cumulative effect with 300 gallons here, 500 there, and then the extreme of Woodlands. He suggested staff follow up on the letter which was sent to the State encouraging the completion of the Water Resources Arroyo Grande Nipomo Mesa study. This report, when completed, will have great credibility and help overcome some of these concerns.

Director Blair said the DWR study will be inconclusive because it only goes to the Santa Maria River.

Directors Winn and Mobraaten agreed to hearing the current staff of the DWR saying they have no great confidence in that report.

Director Trotter said that the Department of Water Resources and the Bureau of Reclamation has more credibility in this state, as far as water studies are concerned and water management in general, than any other body in the State of California by far.

Upon motion of Director Blair, seconded by Director Winn, the Board approved Resolution 2002-806 adopting a mitigated Negative Declaration for the project to serve Tracts 1802 & 1856. Vote 4-1 with Director Wirsing voting no.

RESOLUTION NO. 2002-806

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A MITIGATED NEGATIVE DECLARATION AND AUTHORIZING THE GENERAL MANAGER TO
FILE A NOTICE OF DETERMINATION FOR THE MARIA VISTA DEVELOPMENT, TRACTS 1802 AND 1856**

D-2) REQUEST FOR SERVICE (NUÑEZ)

A request for water and sewer service at 427 Amado St. - Outside District Boundary

This item was handled first because the presenter for Item D-1 was stuck in traffic and would be late. See D-1

The following members of the public spoke:

Ruben Nuñez, son of applicant, requested water and sewer service from the Board. He answered questions from the Board. Upon motion of Director Blair, seconded by Director Winn, the Board unanimously agreed to direct staff to show Mr. Nuñez the process to annex into the District for water and sewer service. Vote 5-0

President Mobraaten directed the meeting to Item D-1.

D-3) REQUEST FOR SERVICE, PROJECT NO. B 011368-1 (CORTEZ)

Request for water & sewer service for a proposed apartment at 149 N. Avocado

There are now 5 people left in the audience.

Elpidio Cortez, Jr. requested water and sewer service to a proposed apartment at 149 N. Avocado Street in Nipomo. Upon motion of Director Blair and seconded by Director Winn, the Board unanimously approved to issue an Intent-to-Serve letter for Project No. B 011368-1 with the conditions as outlined in the Board letter.

D-4) SPECIAL DISTRICT LATENT POWERS

Resolution supporting the return of Latent Powers from LAFCO

President Mobraaten moved to Item E-2.

The Board considered a resolution, if approved, to be presented to the San Luis Obispo Chapter of the Special Districts Association as a proposed model to initiate a majority of special districts approval in the County to acquire their dormant latent powers.

There was no public comment.

Upon motion of Director Blair and seconded by Director Winn, the Board unanimously approved Res. 2002-807 supporting the return of latent powers from LAFCO. Vote 5-0.

**RESOLUTION NO. 2002-807
A RESOLUTION OF THE NIPOMO COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS REQUESTING THE APPEAL OF
REGULATION LIMITING OF SPECIAL DISTRICT LATENT POWERS**

E. OTHER BUSINESS

- E-1) YEAR 2002 DISTRICT INVESTMENT POLICY
Annual adoption of the District Investment Policy

The California Government Code Section 53646 (2) requires local government entities to adopt an annual investment policy. There was no public comment.

Upon motion of Director Trotter and seconded by Director Winn, the Board unanimously approved Resolution 2002-808 adopting the 2002 District Investment Policy. Vote 5-0

**RESOLUTION NO. 2002-808
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING THE YEAR 2002 DISTRICT INVESTMENT POLICY**

- E-2) URBAN STREAM RESTORATION PROGRAM
Possible participation in the stream restoration program

Herb Kandel, Nipomo Creek Committee presented information to the Board concerning the Urban Stream Restoration Program

Scott Blume, Connie O'Henley and Sandra McBride also presented information and answered questions from the Board. The Board agreed to have the Flood Committee (Directors Trotter and Winn) meet with Mr. Kandel and others to gather more information to present to the Board.

Back to Item D-4

F. CONSENT AGENDA *The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the Consent Agenda and will be considered separately. Questions or clarification may be made by the Board members without removal from the Consent Agenda. The recommendations for each item are noted in parenthesis.*

- F-1) WARRANTS [RECOMMEND APPROVAL]
F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]
Minutes of January 9, 2002 Regular Board meeting
F-3) 4th Quarter Investment Policy Report [RECEIVE AND FILE]
F-4) 2nd Quarter Financial Report [RECEIVE AND FILE]

Upon motion of Director Blair and seconded by Director Winn, the Board unanimously approved the Consent agenda with a spelling correction.

G. MANAGER'S REPORT

General Manager, Doug Jones, presented information on the following:

STATUS OF PROJECTS

- LIGHTING DISTRICT
- MONTECITO VERDE II SEWER
- TEFFT STREET WATER
- PARK WATER LINE EASEMENT
- BLACK LAKE WATER SUPPLY

H. COMMITTEE REPORTS

NCAC - Director Winn

WRAC - Director Winn NVMWC is due to receive 10 a/f water from Shandon

Chamber of Commerce - Director Wirsing - meeting next week

MINUTES
JANUARY 23, 2002
PAGE FIVE

I. DIRECTORS COMMENTS

Legal Counsel, Jon Seitz announced the need to go into Closed Session pursuant to GC§54956.9 .

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

- A. SMVWCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.
- B. NCSD VS STATE DEPT OF HEALTH SERVICES CV 990716

CONFERENCE WITH NEGOTIATOR

- C. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR- DOUG JONES, COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE

The Board came back into Open Session and announce the decision to direct staff to prepare agreement to hire the services of Bruce Beaudoin to determine the fair market value of the Nipomo Park property.

ADJOURN

President Mobraaten adjourned the meeting 1:14 p.m.

The next regular Board Meeting will be held on February 6, 2002 at 9:30 a.m.

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

FEBRUARY 20, 2002

REGULAR MEETING 9:30 A.M.
BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

RICHARD MOBRAATEN, PRESIDENT
MICHAEL WINN, VICE PRESIDENT
ROBERT BLAIR, DIRECTOR
JUDITH WIRSING, DIRECTOR
CLIFFORD TROTTER, DIRECTOR

STAFF

DOUGLAS JONES, GENERAL MANAGER
DONNA JOHNSON, SEC. TO THE BOARD
JON SEITZ, GENERAL COUNSEL

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson.

A. CALL TO ORDER AND FLAG SALUTE

Vice President Winn called the meeting to order at 9:30 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, the following Board members were present: Directors Trotter, Wirsing, Blair and Winn
President Mobraaten was absent.

C. PUBLIC COMMENTS PERIOD

PUBLIC COMMENTS

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board. Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.

Vice President Winn asked for comments from the public for any matter not on the agenda.

Paul Allen from Air Pollution Control Board and head of the Green Waste Disposal Committee informed the Board and the audience that a Town Hall meeting is to be held March 6th at the Dana School multi-purpose room from 7:00-9:00 p.m. He also told of dates for chipping of green waste.

D. ADMINISTRATIVE ITEMS (The following may be discussed and action may be taken by the Board.)

In waiting for Boyle Engineering to come and set up their presentation, Vice President Winn moved to Item D-2).

D-1) WATER AND SEWER SYSTEM MASTER PLAN - 2001 UPDATE

Review Water & Sewer Master Plan - Boyle Engineering

David Rice, Senior Engineer of Boyle Engineering and Glen Hille gave an overview of the Water And Sewer System Master Plan - 2001 Update. The Board members and the presenters discussed the report.

The following members of the public spoke:

John Snyder, 662 Eucalyptus, Nipomo - Recommended that the Board allow the public more time to view the draft document. He also asked about the comparison of the pumping from 1995. He thought Black Lake should be included in report. Also suggested a variable speed pump for Summit Station. Asked about the future demand and whether it included the Woodlands.

Herb Kandel, 776 Inga Road, Nipomo - Asked if the 2.3% growth rate took into account the other types of growth. Would like to see infrastructure built when community decides how to grow rather than building infrastructure which allows for more annexation.

The Board had comments and questions about the report and had suggestions to be incorporated into the final report, ie: Woodlands-not a part of NCSD, State Water replaced with supplemental water, included reference to inter-tie with Black Lake, time line of 5% growth rather than 2.3%, report designed with 30 psi minimum included. Upon motion of Director Winn and seconded by Director Trotter, the Board unanimously agreed to direct Boyle Engineering to finalize the report with the amendments as noted. Vote 4-0.

D-2) REQUEST FOR SERVICE - CO 02-0021 (FLYNN)

Request for water & sewer service for an 18 unit apartment at 555 Orchard Rd.

A request was received from Mr. Flynn for water and sewer service for 18 three-bedroom multi-family units on Orchard Road.

Ed Flynn, 356 Foxenwood Drive, Santa Maria, Developer of project - said project has been changed to a 16-unit complex.

There was no public comment.

Upon motion of Director Blair and seconded by Director Winn, the Board approved an Intent-to-Serve letter for Parcel Map CO 02-0021, a 16-unit apartment complex with conditions as mentioned in the Board letter. Vote 3-1 with Director Trotter voting no and Director Wirsing abstaining. An abstention is counted as a yes vote.

Director Trotter explained his no vote saying that its time that the Board disallow or delay water service until we know more about where we are going as a Board. The issue of overdraft dominates everything we do here. We must resolve that and determine where we are before we continue with these things.

D-3) REQUEST FOR SERVICE - D010239 (KLUVER)

Request for water & sewer service for an office building @ 250 W. Dana St.

Upon motion of Director Wirsing and seconded by Director Trotter, the Board agreed to table this item until after Item D-1 was heard. Vote 3-1 with Director Blair voting no.

Vice President Winn directed the meeting back to Item D-1.

A request was received from Laborer's International Union Local 402 for water and sewer service for an office building at 250 W. Dana Street.

Owen Betts, Business Manager for the Laborer's Union - explained that the building would be 4000 sq ft with 2 spaces available for possible lease and the Laborer's Union office.

The following member of the public spoke:

John Snyder, 662 Eucalyptus Rd., Nipomo - reminded this Board that findings were made in the 1980's that the basin was over-drafted and a there was a moratorium on hookups as a part of that.

Manager Doug Jones, explained that moratorium was set because the pumping was not available. Once the Eureka Well was on line, the moratorium was lifted.

Jon Seitz, District Legal Counsel reminded the Board that of the process to declare a moratorium.

Director Winn made the motion to approve an Intent-to-Serve letter for this project. Director Blair seconded the motion. Vote 2-2. Directors Blair & Winn voted yes and Directors Wirsing and Trotter voted no. Motion did not pass or fail.

Upon motion of Director Blair and seconded by Director Winn, the Board agreed to table this item until next meeting. Vote 4-0.

D-4) URBAN CREEK RESTORATION PROGRAM - KANDEL

Request for a letter of support for the Creek Restoration Program

Herb Kandel, 776 Inga Road, Nipomo - Thanked the Board for hearing proposal.

Brett Wilkison, 173 Chorro Street, SLO - Creek Committee - Told Board some of the goals of the grant program. Explained some of the plans.

Upon motion of Director Wirsing and seconded by Director Trotter, the Board agreed to submit a letter, as amended, supporting the efforts of the Urban Creek Restoration Program. Vote 3-1 with Director Blair voting no.

E. OTHER BUSINESS

Upon motion of Director Winn and seconded by Director Blair, the Board agreed to table Item E-1 until next meeting. Vote 4-0

E-1) UPDATE BOARD OF DIRECTORS BY-LAWS

Resolution to change meeting time to 9:00 a.m., limit length of meeting, and establish adjustability of meeting dates

Upon motion of Director Winn and seconded by Director Blair, the Board tabled this item until the next meeting. Vote 4-0

E-2) ESTABLISH A VARIANCE PROCEDURE

Renew draft variance procedure to incorporate into the District Codes

Jon Seitz, District Legal Counsel, presented three examples of variance policies. There was much Board discussion.

There was no public comment.

Upon motion of Director Blair and seconded by Director Wirsing, the Board requested staff to bring Example #3, with suggested modifications, back to the Board in the form of an ordinance. Vote 4-0

F. CONSENT AGENDA *The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the Consent Agenda and will be considered separately. Questions or clarification may be made by the Board members without removal from the Consent Agenda. The recommendations for each item are noted in parenthesis.*

F-1) WARRANTS [RECOMMEND APPROVAL]

F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]

Minutes of January 23, 2002 Regular Board meeting

Minutes of February 1, 2002 Special Board meeting

Minutes of February 6, 2002 Regular Board meeting

F-3) ACCEPTANCE OF IMPROVEMENTS - HONEY GROVE II & III [RECOMMEND APPROVAL]

The following member of the public spoke:

John Snyder, 662 Eucalyptus, Nipomo - Suggested including more complete statements made by the Board members.

Item F-2 (Minutes of January 23, 2002) was pulled for discussion

Upon motion of Director Blair and seconded by Director Trotter, the Board approved F-1, F-2 Minutes of Feb. 1st and 6th and F-3. Vote 3-1 Director Wirsing voted no.

Upon motion of Director Wirsing and seconded by Director Trotter, the Board agreed to table the Minutes of the January 23, 2002 meeting until the staff revises the minutes to reflect the Board comments because the Board was acting in a quasi-judicial manner and then have staff submit a copy to each director for approval before presenting at the next meeting. Vote 3-1 with Director Blair voting no.

The Board then went to Item E-2.

G. MANAGER'S REPORT

- LAFCO REVIEW OF DISTRICT'S SPHERE OF INFLUENCE SCHEDULE TO BEGIN MAY, 2002
- AWWA ARTICLE - THE COMING CRISIS - WATER INFRASTRUCTURE
- WRAC, JANUARY 2002
- MISSION STATEMENT

J. COMMITTEE REPORTS
I. DIRECTORS COMMENTS

CLOSED SESSION

Jon Seitz, District Legal Counsel, announced the need to go into Closed Session to discuss Item B. Director Blair excused himself for a possible conflict of interest.

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

A. SMVWCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.

B. NCSD VS STATE DEPT OF HEALTH SERVICES CV 990716

CONFERENCE WITH NEGOTIATOR

C. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR- DOUG JONES, COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE

The Board came back into Open Session and reported that upon motion of Director Wirsing and seconded by Director Trotter, the Board gave settlement authority to legal counsel. Vote 3-0

ADJOURN

Vice President Winn adjourned the meeting at 1:30 p.m.

The next regular Board Meeting will be held on March 6, 2002 at 9:30 a.m.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES *D*
DATE: MARCH 6, 2002

AGENDA ITEM
MAR 06 2002

MANAGER'S REPORT

- G-1) MISSION STATEMENT FOR NCSD
Examples of mission statements from community services districts in our area
- G-2) AWWA ANNUAL CONFERENCE
Enclosed is information on the AWWA annual conference.
- G-3) ROBERTSON - GENERAL PLAN AMENDMENT
The County Planning Commission was reviewing the so-called Robertson General Plan Amendment, approx. 58 acres and 9 lots in anticipation to annexation to NCSD with the restrictions imposed the same as Summit Station area. Attached is the first page of the Planning Commission staff report and a map.

Board 2002\mgr 030602.DOC

NIPOMO COMMUNITY

BOARD MEMBERS

RICHARD MOBRAATEN, PRESIDENT
MICHAEL WINN, VICE PRESIDENT
ROBERT BLAIR, DIRECTOR
JUDITH WIRSING, DIRECTOR
CLIFFORD TROTTER, DIRECTOR



SERVICES DISTRICT

STAFF

DOUGLAS JONES, GENERAL MANAGER
JON SEITZ, GENERAL COUNSEL
LEE DOUGLAS, MAINTENANCE SUPERVISOR

148 SOUTH WILSON STREET POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326
(805) 929-1133 FAX (805) 929-1932 Email address gm@nipomocsd.com

NIPOMO COMMUNITY SERVICES DISTRICT PROPOSED MISSION STATEMENT

SAMPLES

- a. To provide the community with services which have the quality efficiency, innovative and economic basis to meet the desired level of services.

- b. To provide dependable, quality, efficient, innovative and economical service to District customers and the community.

**MISSION STATEMENTS
OF COMMUNITY SERVICES DISTRICTS
IN OUR AREA**

LOS OSOS CSD

The Los Osos Community Services District shall provide the best possible water, wastewater, drainage, parks, recreation, street lighting and fire and rescue services to the community of Los Osos, California. The Board of Directors and staff shall respond with excellence to meet the community's needs and desires. The Board of Directors shall act as a conduit to express the political will of our community to other agencies and levels of government.

TEMPLETON CSD

The Templeton Community Services District's mission is to provide the residents of the community with water, sewer, fire, parks and recreation, lighting and drainage services.

In administering these responsibilities the District strives to provide these services in the most cost effective and efficient manner possible. The District identifies and anticipates concerns, problems, and opportunities, and takes action to address them. The district also provides a catalyst for the involvement of residents, businesses, and organizations through advisory boards in the development and maintenance of a well integrated community.

Essential to accomplishing the objective outlined above is the selection, training, motivation and retention of highly qualified men and women as District employees.

OCEANO CSD

To provide the citizens of the district with quality, innovative, and cost-effective services, including water, sewer, fire protection, street lighting services, parks and recreation, trash collection, and other miscellaneous items, through responsive and responsible local government to meet the changing needs of the community.

HERITAGE RANCH CSD

The purpose and mission of HRCSD is to provide municipal services to the Village of Heritage Ranch in a manner that is efficient, safe and in accordance with applicable law. These services include the supply of drinking water, the disposal of waste water, removal of solid waste, parks and recreation and retail sales of gasoline.

CAMBRIA CSD

(This mission statement is a work in progress, with the initial intention to provide public clarity of services provided by the District.)

Keeping in mind Cambria's unique history and character, the CCSD provides the services of water, wastewater, waste disposal, fire, rescue and emergency medical, street lighting, parks, transit, and Cambria Veteran's Memorial Building administration.

VANDENBERG VILLAGE COMMUNITY SERVICES DISTRICT

To efficiently provide dependable drinking water delivery and wastewater collection services to Vandenberg Village residents, with a commitment to customer service.

MISSION HILLS COMMUNITY SERVICES DISTRICT

The Mission Hills Community Services District is committed to provide the residents within the district reliable, high quality water and wastewater services in an efficient, cost effective, and environmentally safe manner.

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Staff Report - Planning Commission

County of San Luis Obispo - Department of Planning and Building

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FROM: JOHN MCKENZIE, ENVIRONMENTAL SPECIALIST

RECEIVED

DATE: February 28, 2002

FEB 22 2002

SUBJECT: Request for a Land Use Element amendment application (G990001T - Robertson, et al) to amend the South County Area Plan by: adding 9 lots (totaling approximately 58 acres) to the existing "Summit Station area" and to allow for future annexation to the Nipomo Community Services District for water. All existing Summit Station Area planning area standards, including no secondary residences or no further subdivisions being allowed for existing properties, would be extended onto these properties.
Supervisorial District No. 4

RECOMMENDATION:

Adopt the resolution recommending to the Board of Supervisors approval of this general plan amendment as shown in the attached Exhibit G990001T:A and G990001T:B based on the recommended findings contained in this report, and approval of the proposed Negative Declaration.

DISCUSSION

Proposal

The site is designated Residential Rural and includes eight properties totaling approximately 58 acres. These sites are adjacent to the Summit Station Road area that was granted the ability to join the Nipomo Community Services District because it was subject to a unique hardship situation regarding water availability. These property owners have experienced the same ground water shortages that landowners in the Summit Station Road area were experiencing prior to the amendment that allowed their annexation to NCSA. This current application is requesting that additional parcels be added to the boundaries of the hardship area. This will allow these property owners to request annexation to, and water service from, Nipomo Community Services District. This required approval from the Local Agency Formation Commission and the Nipomo Community Services District..

The subject properties are located on the north side of Lyn Road, between Camino Perrillo and Stanton Road, south of the Los Berros village area.

Background

The policies of the general plan recommend that the rural portions of the county should depend solely on individual water wells for their water supply needs. However, in May 1993, the Board of Supervisors approved changes to the general plan that would, in rural areas outside the urban reserve line that are experiencing long-term physical hardship due to local groundwater shortages, allow the establishment of an urban level community service system for water service only.

Prior to establishment of community water service in a rural area, the area plan would need to be amended to provide the boundaries, policies and standards that would apply to a specific hardship area and its community water system.

ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT:
COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242

Exhibit A - G990001T:A Proposed Planning Area Standards

- A. Revise Figure 7-32 to include the subject area (approximately 58-acres) to be added to the Summit Station Road Area standards.
- B. Add the following to the Summit Station Road Area standards:
 - 1(h). **Drainage.** Unless otherwise specified by the County Public Works Department, all drainage from future development shall be retained on-site.
 - 1(i). **Fire Safety.** Prior to occupancy of any new residence, acceptable fire water flows, as specified by an approved fire safety plan, must be provided.

ADDED AREA

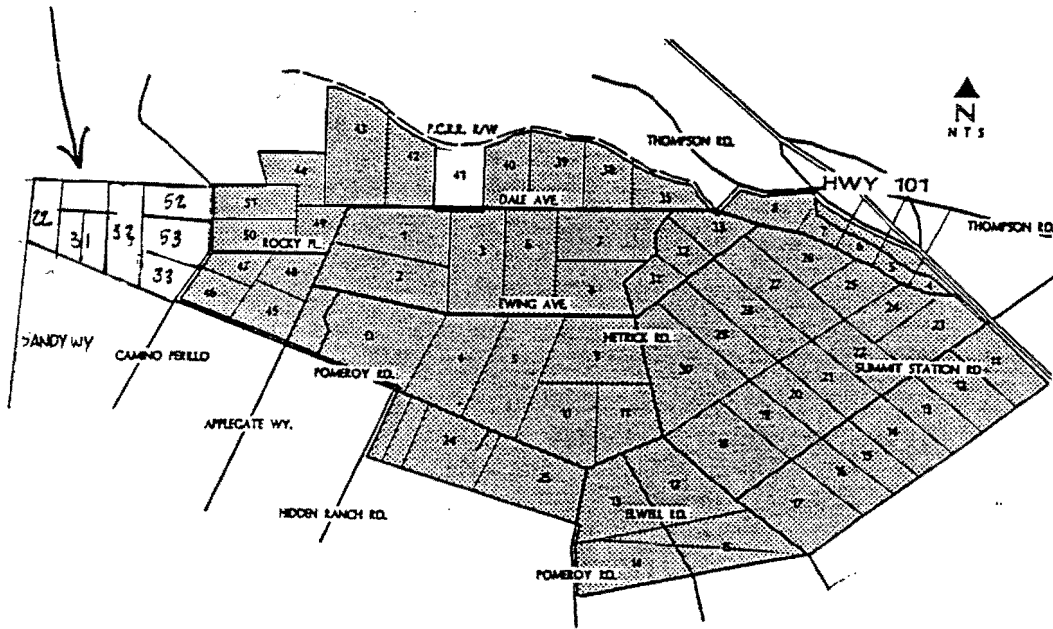


Figure 7-32: RR - Summit Station Road