

NIPOMO COMMUNITY SERVICES DISTRICT AGENDA

Singh
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OCTOBER 23, 2002

REGULAR MEETING 9:00 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

NEXT RESOLUTION 2002-838

B. ROLL CALL

NEXT ORDINANCE 2002-94

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) DISTRICT AUDIT REPORT FOR FY 2001-2002

Auditor Carlos Reynoso, CPA, to review FY 01-02 audit report

D-2) REQUEST FOR SERVICE-TRACT 2456 (KING VENTURES)

Request for water & sewer service for a 41-unit residential development at Division/Frontage Rd.

D-3) REQUEST FOR SERVICE-TRACT 2470 (COOL)

Request for water & sewer service for a re-subdivision of Tract 2282 (addition of one lot) on Jasmine Way

D-4) REQUEST FOR SERVICE-CO02-0251 (HILL)

Request for water & sewer service for a 4-lot commercial/residential development on West Tefft St.

E. OTHER BUSINESS

E-1) AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES FOR ANNEXATION STUDY

Review draft annexation study agreement for conceptual approval (ROBERTSON)

E-2) REQUEST FOR SERVICES (RFS)

Consideration to issue Intent-to-Serve letters for RFS administratively

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 October 2, 2002, Regular Board meeting

F-3) INVESTMENT POLICY-QUARTERLY REPORT [RECOMMEND ACCEPT AND FILE]

G. MANAGER'S REPORT

G-1) LEGISLATIVE REVIEW

H. COMMITTEE REPORTS

I. DIRECTORS COMMENTS

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

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

B. SAVE THE MESA VS. NCSD CV 020181

C. ANTICIPATED LITIGATION, ONE CASE

CONFERENCE WITH NEGOTIATOR GC§54956.8

D. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR - DOUG JONES.

COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE. POSSIBLE LITIGATION INITIATION GC§54956.9

ADJOURN

The next regular Board Meeting will be held on November 6, 2002, at 9:00 a.m.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 23, 2002

**AGENDA ITEM
D-1
OCTOBER 23, 2002**

AUDIT REPORT FY 2001-2003

ITEM

Audit Report on District's FY 2001-2002

BACKGROUND


The District is required by law to have an independent audit performed on its financial statements. Carlos Reynoso, CPA, prepared the audit for the fiscal year ending June 30, 2002.

Carlos Reynoso, CPA, will review the audit report with your Honorable Board. He will answer any questions you may have regarding the financial statements.

RECOMMENDATION

Upon completion of the presentation and public comments, a motion would be in order to accept and file the Audit Report for FY 2001-2002.

Board 2002/Audit Report

TO: BOARD OF DIRECTORS
FROM: DOUG JONES 
DATE: OCTOBER 23, 2002

**AGENDA ITEM
D-2
OCTOBER 23, 2002**

REQUEST FOR SERVICE
TRACT 2456 (KING VENTURES)

ITEM

Request for water service for a 41-unit residential development at the intersection of Division and South Frontage Rds.

BACKGROUND

The District received a request from Mr. David Watson of King Ventures for an Intent-to-Serve letter for water and sewer services to Tract 2456, a 41-unit residential development at Division and S. Frontage Rds. This item was continued from the October 2, 2002, meeting so the developer could be present to answer Board questions. This development is similar to the existing Tract 2399, across the street from this project. The proposed development is shown on the attached tract map. Your Honorable Board may approve an Intent-to-Serve letter 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 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 an Intent-to-Serve for Tract 2456 with the above conditions.



September 17, 2002

NIPOMO COMMUNITY SERVICES DISTRICT
Attn.: Mr. Doug Jones, District Manager
Post Office Box 326
Nipomo, California 93444

**Re: Request For Water and Wastewater "Will Serve" Letter of Intent -
"Nipomo Village Phase II" Subdivision, Tract 2456 - Division Street -
Nipomo**

Dear Doug:

Please accept this letter and the accompanying copy of our tentative tract map as our request to the District to issue an "Intent-To-Serve" commitment for this tract for water and wastewater services.

This project will be an extension of the Tract 2399 development presently underway, and includes a total of 41 residential units, a common area park of just under ½ acre, and a small day care center of approximately 2,500 SF.

Please call me to discuss this request further if you need. Thank you in advance for your continuing courtesy and assistance on these matters.

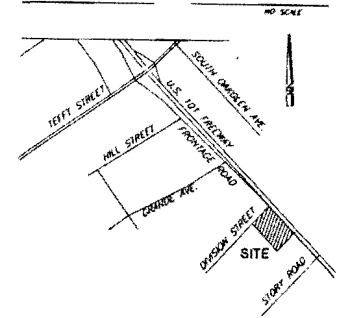
Sincerely,

A handwritten signature in black ink, appearing to read "David Watson", written over a circular scribble.

David Watson, AICP

NIPV11ncsd01

VICINITY MAP



LEGEND

	EXISTING TRACT BOUNDARY
	EXISTING OR NEW EASEMENT
	INTERIOR LOTS
	CURB, GUTTER & SIDEWALK
	EXISTING CONTOURS
	EXISTING POWER POLE
	EXISTING HYDRANT
	EXISTING FENCE
	CENTERLINE
	RETAINING WALL/ROUND HOLE
	12" PVC STORM DRAIN PIPE
	SLOPE SYMBOL
	SS (SAND)

PROJECT DATA

1. PROJECT ADDRESS:	FRONTAGE ROAD
2. TRACT SIZE:	1,527.68 SQ. FEET (1,203.86 SQ. FEET - AFTER FRONTAGE ROAD ABANDONMENT)
3. ZONING:	RESIDENTIAL SINGLE-FAMILY
4. APPLICANT'S PARCEL NO.:	012-303-014
5. WATER SUPPLY:	ARROW COMMUNITY SERVICES DISTRICT
6. SEWER DISPOSAL:	ARROW COMMUNITY SERVICES DISTRICT
7. GAS:	SOUTHERN CALIFORNIA GAS CO.
8. ELECTRICITY:	PACIFIC GAS & ELECTRIC
9. TELEPHONE:	PACIFIC BELL

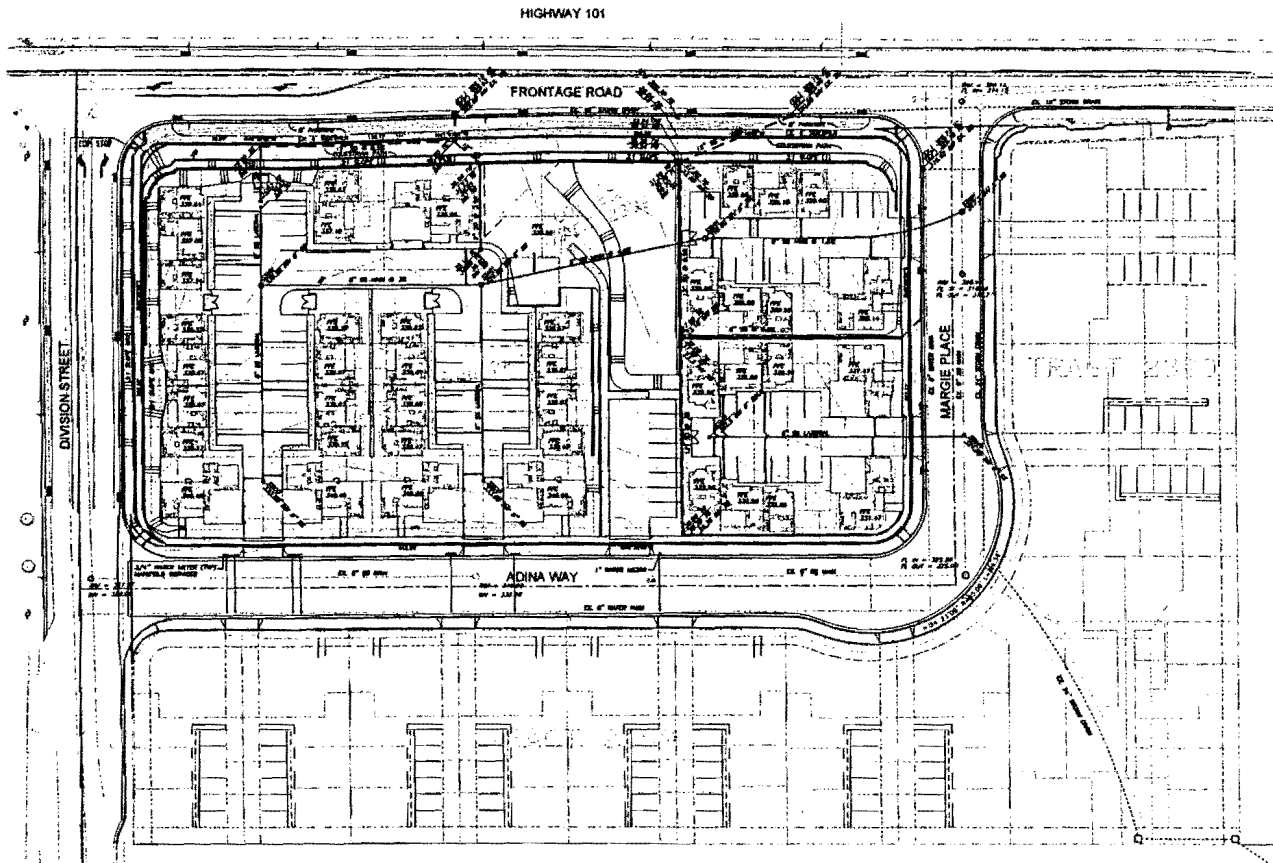
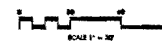
PRELIMINARY
UTILITY PLAN
TENTATIVE TRACT MAP 2458
FOR
NIPOMO TOWNHOMES

LEGAL DESCRIPTION:
BEING ALL OF LOT 14 OF TRACT 1886, IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO THE MAP RECORDED IN BOOK 18, PAGE 18, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN COUNTY.

NIPOMO CALIFORNIA

PREPARED FOR:
Owners/Applicant:
1014 Valencia
200 Pismo Street
San Luis Obispo, CA 93401
Contact Person:
Dave Vetter
Project Manager

PREPARED BY:
Engineer:
Engineering Development Associates
701 Oak Street
Pismo Beach, CA 93448
(805) 237-9323
Paul Richards, P.L.E.



SINGLE-FAMILY

DIVISION STREET

HIGHWAY 101


FRONTAGE ROAD

ADINA WAY

MARGIE PLACE

SINGLE-FAMILY

SINGLE-FAMILY

TO: BOARD OF DIRECTORS
FROM: DOUG JONES 
DATE: OCTOBER 2, 2002

**AGENDA ITEM
D-3
OCTOBER 2, 2002**

REQUEST FOR SERVICE
TRACT 2470 (COOL)

ITEM

Request for water and sewer service for a re-subdivision of Tract 2282, an addition of one lot on Jasmine Way at Bracken Lane.

BACKGROUND

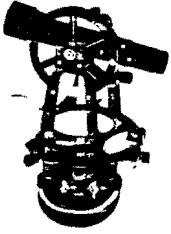
The District has received a request from Tim Crawford of Central Coast Engineering for water and sewer service for a re-subdivision of Tract 2282, the addition of one lot, which is now Tract 2470. Attached is the vested tentative map showing the development.

Your Honorable Board may grant an Intent-to-Serve letter for Tract 2470 with the same conditions as Tract 2282, except for the addition of one lot (#4) being divided into two lots.

1. Enter into a Plan Check and Inspection Agreement and pay the appropriate fees.
2. Submit improvement plans showing the water and sewer lines, prepared 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 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 an Intent-to-Serve letter for water and sewer service for Tract 2470, with the above mentioned conditions.



CENTRAL COAST
ENGINEERING

396 Buckley Road, Suite 1
San Luis Obispo
California 93401
(805) 544-3278
FAX (805) 541-3137

September 24, 2002
E2544

Nipomo Community Services District
148 S. Wilson Ave.
Nipomo, CA 93444
Attn: Doug Jones

Subject: Tract 2470

Dear Doug,

Per our recent discussion, I am writing on behalf of Monte Cool to request a will serve letter for the above mentioned Tract. As I mentioned in our discussion, this project is a re-subdivision of lot 4 of Tract 2282, which you currently serve, and we will require one additional water and sewer service with this project. I am enclosing a plot plan showing the proposed location of the new service.

If you have any questions or require additional information please call me.

Thank you for your help in this matter.

Regards,

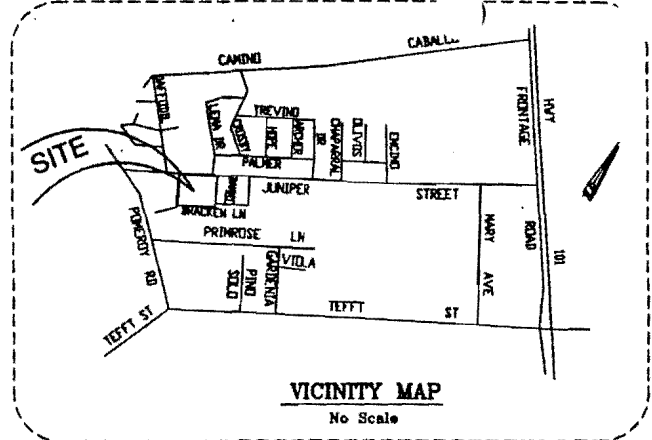
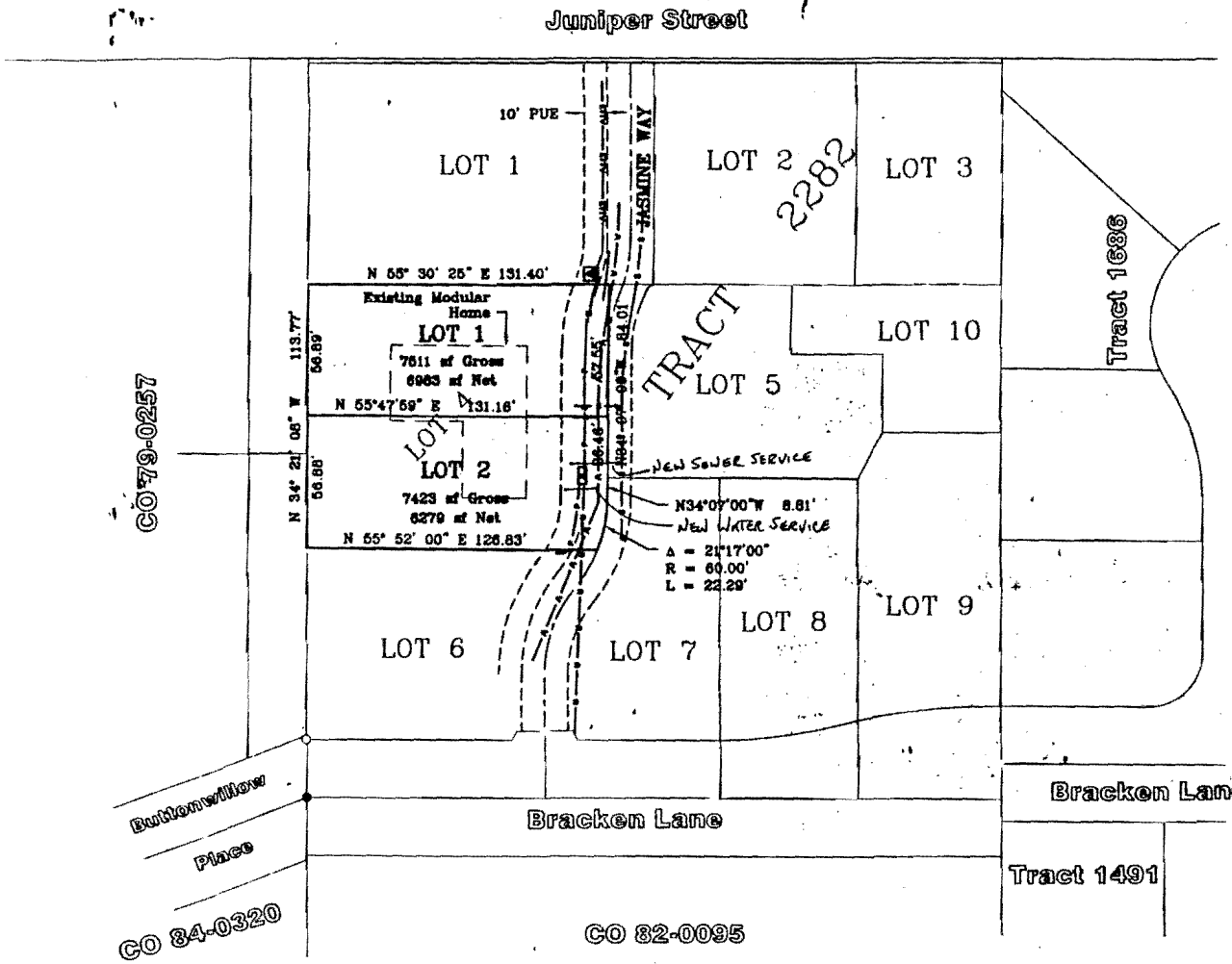
Tim Crawford
Project Engineer

RECEIVED

SEP 27 2002

COMMUNITY SERVICES DISTRICT

willserve



OWNER:
 MONTE J. COOL
 1577 EL CAMINO REAL
 ARROYO GRANDE, CA 93420

APN:
 092-136-049

UTILITIES:
 POWER - PG&E
 TELEPHONE - PACIFIC BELL
 GAS - SO. CAL. GAS CO.
 WATER - NCS&D
 SEWER - NCS&D

ZONING:
 RESIDENTIAL SINGLE FAMILY

VESTING TENTATIVI
TRACT 2470

BEING A SUBDIVISION OF LOT 4
 OF TRACT 2282, AS RECORDED IN
 MAP BOOK 19 AT PAGE 34,
 IN THE
 COUNTY OF SAN LUIS OBISPO,
 STATE OF CALIFORNIA

MARCH, 2002



Central Coast Engineering
 396 Buckley Road
 San Luis Obispo, CA 93401

Ben L. Maddalena RCF 12545

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 23, 2002

**AGENDA ITEM
D-4
OCTOBER 18, 2002**

REQUEST FOR SERVICE – CO 02-0215 (HILL)

ITEM

Request for water and sewer service for a 4-lot commercial/residential development - W. Tefft Street

BACKGROUND

The District a request from WRD Engineering for water and sewer service for a 4-lot commercial/residential development on West Tefft Street.

Additional information, with respect to the layout of this development, has been requested from WRD Engineering.

Your Honorable Board may approve an Intent-to-Serve letter 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 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 4-lot commercial/residential development for CO 02-0215, with the above mentioned conditions.

Jesse L.B. Hill
Attorney at Law
1910 Grant Avenue
Arroyo Grande, CA 93420
(805) 489-8384

October 3, 2002

NCSD
Doug Jones General Manager
P.O. Box 326
Nipomo, CA 93444

RE: Request for Will Serve Letter
Tentative Parcel Map

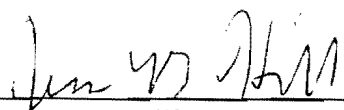
Dear Mr. Jones:

I have dropped off two copies of my tentative parcel map at your office on October 2, 2002. At the hearing yesterday, the meeting of the Board of the NCSD was moved to October 23, 2002.

I request to be placed on that agenda for a will serve or intent to serve letter. Per the meeting on September 18, 2002 and at the request of the Board of the NCSD, I have had my engineer draw water and sewer lines on the tentative parcel maps. While this has never been required before to my knowledge, I have tried to comply with the Board's wishes to satisfy their direction to satisfy the General Manager's requirements.

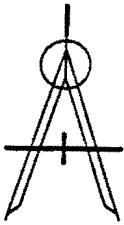
If you desire any additional information or have any concerns that have not been addressed on the parcel maps, please contact me at your earliest convenience.

Very truly yours,



Jesse L.B. Hill

cc. Bill Dyer



WRD Engineering

Civil Engineering - Land Surveying

592 South 13th Street 93433
P. O. Box 432
Grover Beach CA 93483

Phone: (805) 481-1964
FAX: (805) 481-9146

September 4, 2002

NCSD
Doug Jones
P.O. Box 326
Nipomo, CA 93444

RE: Request for Will Serve letter
Tentative Parcel Map CO 02-0251

Dear Doug,

On behalf of the owner of the above referenced project, this is a request for a "Can-and-will-Serve" letter for Tentative Map processing with the County of San Luis Obispo. A copy of the Tentative Parcel Map is enclosed for you information.

The project includes the following:

- a) Existing single family residence of 1,500 sq ft already served by water but on private septic system.
- b) Three proposed professional office buildings of 3,000 sq ft each.
- c) Twelve proposed residential studio apartments of 500 sq ft each.

Please respond at your earliest convenience. If you have any questions please call.

Regards,


Bill Dyer

RECEIVED

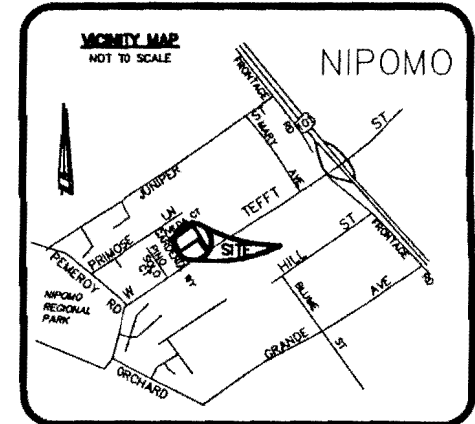
SEP 09 2002

**NIPOMO COMMUNITY
SERVICES DISTRICT**

Cc: Jessie Hill, Esq.

**VESTING
TENTATIVE PARCEL MAP
NO. CO 02-0251
OF A PORTION OF PARCEL 1
(9 PM 3)**

County of San Luis Obispo,
State of CALIFORNIA
August, 2002



SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE COMPLIES WITH THE LOT DIVISION ORDINANCE OF THE COUNTY OF SAN LUIS OBISPO, CALIFORNIA.

BY: _____
RICHARD H. CASSERA, LS4283, EXP. 6/30/04

APPLICANT & OWNER
JESSE HILL
1910 GRANT AVE
ARROYO GRANDE, CA 93420
(805)489-8384



ASSESSOR'S PARCEL NUMBERS
092-572-034 TEFFT

NOTE

THE BEARINGS AND DISTANCES SHOWN ON THIS MAP ARE PER 9-PM-3.

LEGEND

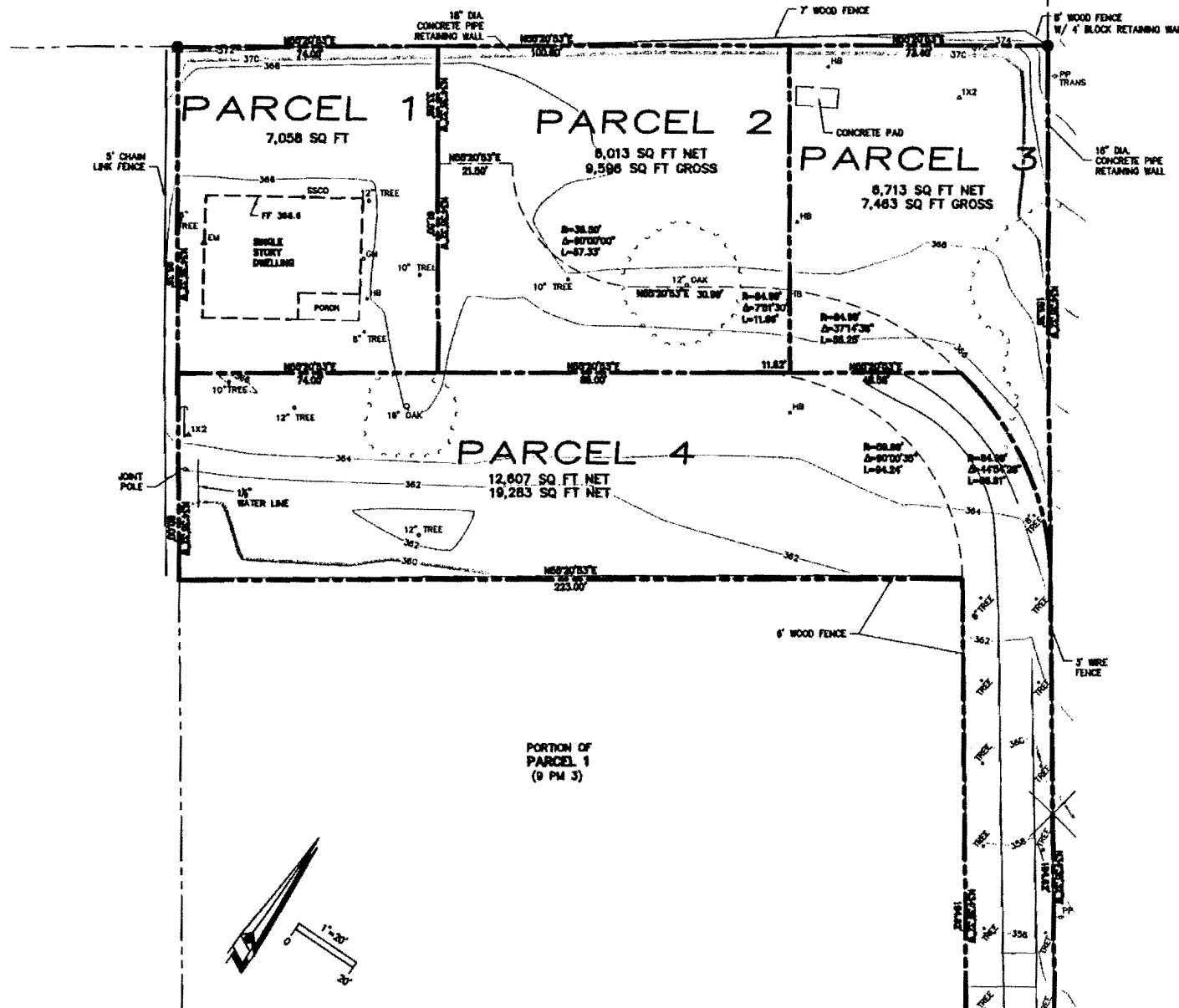
- EXISTING CONTOUR
- PROPERTY LINE
- EASEMENT LINE


Surveying by:



WRD Engineering
Civil Engineering - Land Surveying
P. O. Box 432, Grover Beach, CA 93483
PH: (805) 481-1984 FAX: (805) 481-9148

WRD_H02181



TO: BOARD OF DIRECTORS
FROM: DOUG JONES 
DATE: OCTOBER 23, 2002

**AGENDA ITEM
E-1
OCTOBER 23, 2002**

AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY
ROBERTSON

ITEM

Draft agreement for an annexation study for conceptual approval prior to submitting to applicant for signatures.

BACKGROUND

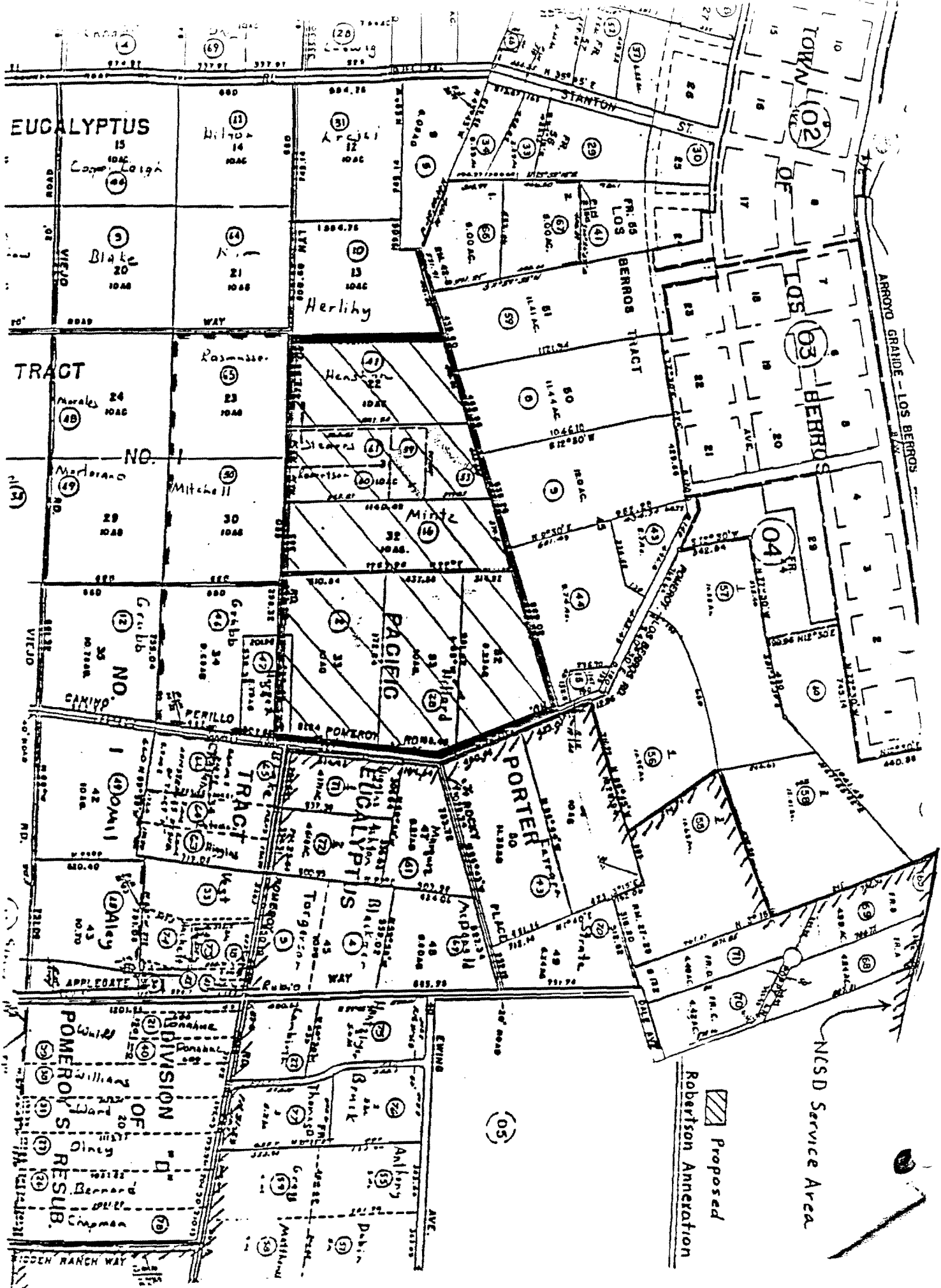
Your Honorable Board, on September 18, 2002, reviewed a request from Mr. Robertson for annexation of approx. 60 acres on Lyn Road for water. An agreement for an annexation study has been prepared where the applicant(s) would cover the costs of this study.

Attached is the agreement for an annexation study for your Honorable Board's conceptual approval prior to being sent to the applicants for their signatures.

RECOMMENDATION

Staff recommends that your Honorable Board approve the agreement for an annexation study to be presented to the applicants for signatures.

Board 2002/Robertson annexation study agreement.DOC



**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444

APN NO _____

**AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY**

THIS AGREEMENT ("Agreement"), made this ____ day of _____, 2002 by and between the **Nipomo Community Services District**, an independent Special District formed pursuant to Government Code §§ 61000 et seq. ("**District**"), and _____, _____, _____, _____, _____, _____, _____ (collectively "**Applicants**"), with reference to the following recitals.

- A. **Applicants** are the owners of certain real property located on Pomeroy and Lyn Roads. The subject property ("**Property**") consists of approximately 9 parcels (approximately sixty (60) acres). The **Property** is further depicted/described on Exhibit "A" attached hereto.
- B. The **Property** is located outside the **District's** current boundaries and Sphere of influence.
- C. **Applicants** desire the **District** to conduct studies and make further discretionary findings to determine the suitability of the **Property** for Annexation to the **District**.
- D. Both the **Applicants** and the **District** recognize and agree that this Agreement does not confer entitlements to the **Applicants** or the **Property** related to **Applicants** request for an Annexation study.

**AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY**

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Payment of Costs

Applicants agree to pay the **District** all incurred costs, both indirect and indirect, associated with performing the studies, staff reports and staff recommendations to determine the suitability of the **Property** for potential Annexation to the District. These costs include, but are not limited to, **District** staff time, preparation of environmental documentation, planning, engineering, legal services, and retaining professional consultants.

2. Deposit for District Services

- A. At the time of execution of this Agreement, **Applicants** shall advance to the **District** the sum of \$4,000.00 for **District** services more particularly described in paragraph 1, above. The **Applicants** authorize the **District** to withdraw from the deposit payment for services pursuant to this Agreement as they are incurred by **District**.
- B. **District** will notify **Applicants** whenever the deposit is reduced to \$500.00 or less. Within 15 days after such notification is mailed, **Applicants** shall make an additional deposit in the same amount as the initial deposit.
- C. Upon completion of the studies, staff reports and staff recommendations any funds so deposited by **Applicants** in excess of the **District's** costs shall be refunded to the **Applicants**. Conversely, any costs incurred by the **District** over and above the amounts deposited by **Applicants** shall be paid by **Applicants** upon demand.

3. Obligations of District

- A. The **District** will retain engineers and consultants to perform related studies and make recommendations to the **District** Board of Directors related to the suitability of the **Property** for Annexation. Both the Applicants and **District** understand the annexation process will require many discretionary approvals

**AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY**

by the **District** Board of Directors, and therefore, there are no promises or guarantees that Applicants will be successful in obtaining Board of Director approval for the Annexation or that the Local Agency Formation Commission ("LAFCO") will approve the Annexation.

- B. In the event that the **Property** is withdrawn or not approved for Annexation, **District** will return the unused deposit to **Applicants**.
- C. The **District** Board of Directors retains the discretion to disapprove, approve or place further conditions on the Annexation of the **Property** to the **District**.

4. LAFCO Processing

The **Property** shall not be submitted to LAFCO unless and until the **District** Board of Directors tentatively approves the **Property** for Annexation.

5. Indemnification and Hold Harmless

The **Applicants** jointly and severally agree to defend, indemnify and hold harmless, the **District**, its Directors, officers, employees, consultants, and agents from all liabilities, judgments, costs and expenses in connection with **District's** actions, findings or final determination related to the suitability of the **Property** for Annexation to the **District**.

6. Term of Agreement and Termination

- A. This Agreement shall become effective on the date the **District** executes this Agreement and **Applicants** comply with Section 2 of this Agreement by making the initial deposit and shall remain in effect until terminated by the mutual consent of the parties or as provided in subsection B below.
- B. The **District** and/or the **Applicants** may terminate this Agreement by delivery of written notice to the other party.
- C. In the event of termination the **District** shall return to the **Applicants** the unused deposit, if any.

**AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY**

- D. Termination shall not relieve **Applicants** from payment of any costs incurred by **District** over and above the amounts on deposit by **Applicants** with **District**.

7. Waiver of Rights

Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

8. Agreement

This Agreement is freely and voluntarily entered into by the parties after having the opportunity to consult with their respective attorneys. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. The parties, in entering into this Agreement, do not rely on any inducements, promises, or representations made by each other, their representatives, or any other person, other than those inducements, promises, and representations contained in this Agreement. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the **Applicants** and the **District**.

9. Severability

If any provision or condition of this Agreement is held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect unimpaired by the court ruling.

10. Notices

All notices, statements, reports, approvals, requests, bills or other communications that are required either expressly or by implication to be given by either party to the other under this Agreement shall be in writing and signed for each party by such officers as each may, from time to time, be authorized in writing to so act. All such notices shall be deemed to have been received on the date of delivery if delivered personally or three (3) days after mailing if enclosed in a properly addressed and stamped envelope and deposited in a United States Post Office for delivery. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as shown below:

**AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY**

NIPOMO COMMUNITY SERVICES DISTRICT

c/o Doug Jones, General Manager
P.O. Box 326
Nipomo, CA 93444

APPLICANTS:

11. Headings

The paragraph headings used in this Agreement are for reference only, and shall not in any way limit or amplify the terms and provisions hereof, nor shall they enter into the interpretation of this Agreement.

12. Interpretation of this Agreement

The parties acknowledge that each party and its attorney have reviewed, negotiated and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and

**AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY**

delivered by any party in connection with the transactions contemplated by this Agreement.

13. Venue

This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. The duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

14. Costs and Attorneys' Fees

The prevailing party in any action between the parties to this Agreement brought to enforce the terms of this Agreement, or arising out of this Agreement, shall recover its reasonable costs and attorney's fees expended in connection with such an action from the other party.

15. Recitals

The Recitals A through D of this Agreement are incorporated herein by this reference and made a part hereof.

16. Authority to Execute Agreement

The undersigned hereby represents that he/she personally owns the subject **Property** referenced below their respective signatures.

IN WITNESS WHEREOF, District and Applicants have executed this Agreement the day and year first above written.

APN NO _____

**AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY**

APPLICANTS: (MUST BE NOTARIZED)

APPLICANTS: (MUST BE NOTARIZED)

By: _____

By: _____

(Print or Type Name)

(Print or Type Name)

APN NO: _____

APN NO: _____

Date: _____

Date: _____

By: _____

By: _____

(Print or Type Name)

(Print or Type Name)

APN NO: _____

APN NO: _____

Date: _____

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(Print or Type Name)

(Print or Type Name)

APN NO: _____

APN NO: _____

Date: _____

Date: _____

By: _____

By: _____

(Print or Type Name)

(Print or Type Name)

APN NO: _____

APN NO: _____

Date: _____

Date: _____

APN NO _____

**AGREEMENT FOR PAYMENT OF FULL COST RECOVERY FEES
FOR AN ANNEXATION STUDY**

DISTRICT:

NIPOMO COMMUNITY SERVICES DISTRICT

By: _____

(Notarized signature)

ATTEST:

Donna K. Johnson, Secretary
to the Board of Directors

APPROVED AS TO FORM:

Jon S. Seitz, District Legal Counsel

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 23, 2002

**AGENDA ITEM
E-2
OCTOBER 23, 2002**

REQUEST FOR INTENT-TO-SERVE LETTERS

ITEM

Consideration to issue Intent-to-Serve letters administratively

BACKGROUND

At the October 2, 2002, regular meeting, your Honorable Board requested to consider the possibility of staff reviewing and approving requests for Intent-to-Serve letters administratively rather than each request being approved by the Board. Presently, whenever a developer or an individual requests an Intent-to-Serve letter for water and sewer service, the Board reviews and approves the item. Within the District boundary, an Intent-to-Serve letter is needed to process a project through the County. After the Intent-to-Serve letter is issued and District fees are paid, staff issues a Will-Serve letter to the applicant.

The following are policies the Board may consider with respect to issuing Intent-to-Serve letters:

- Maintain the existing policy that all requests come to the Board for approval except individual existing lots.
- Have developments greater than 4 lots (or a specified number) receive Board approval
- Have all requests approved administratively
- Others

In addition to the above suggestions, the District's Code Section 4.16, which applies to sewer service, could be modified to include water services. This will allow staff to evaluate the impact on available service capacities.

RECOMMENDATION

This item is a policy issue. The Board may establish a policy to approve an Intent-to-Serve letter administratively or by the Board. The Board may revise Code Section 4.16 to include water services so the proposed development may be evaluated with respect to demands on the District's services and infrastructure.

Chapter 4.16

APPROVAL LETTERS FOR SEWER SERVICE

Sections:

- 4.16.010 Issuance.**
- 4.16.020 Board discretion to provide earlier sewer service.**
- 4.16.040 Tentative and final approval letters.**

4.16.010 Issuance.

A. Volunteers. Upon the payment of all sewer system fees for proposed development projects on volunteer property within the district's zone for the sewerage project, the general manager shall issue an approval letter certifying that the district will provide sewer service as soon as the development is completed; provided, however, if the proposed development exceeds by more than ten percent the number of DUE's used by the district for calculations at the design stage of the sewer project, the application for an approval letter for sewer service shall be considered by the board of directors at a public meeting, and the board shall determine which portion of the project is entitled to the sewer service priority granted generally to volunteers.

B. Nonvolunteer Property in the District. Applicants for sewer service for development projects for nonvolunteer property within the district shall be issued approval letters which contain the following condition in capital letters:

THE COMMITMENT TO PROVIDE SEWER SERVICE HEREIN IS IRREVOCABLE SO LONG AS THE DE-

VELOPMENT OR PROJECT IS RECOGNIZED AS VIABLE BY THE COUNTY OF SAN LUIS OBISPO: HOWEVER, THE OBLIGATION OF THE DISTRICT TO PROVIDE SEWER SERVICE SHALL BEGIN TWELVE (12) MONTHS AFTER THE DISTRICT HAS RECEIVED FULL PAYMENT OF ALL SEWER SYSTEM FEES.

C. Property Requesting Annexation to the District. All property annexed to the district shall comply with all requirements of the district's annexation policy, dated February 2, 1983, set out following Title 4 of this code, including, without limitation, the requirement that all sewer system fees be paid prior to the completion of annexation.

Applicants for sewer service for property outside the district (all of which is nonvolunteer property) shall be issued approval letters which contain the following condition in capital letters:

THE COMMITMENT TO PROVIDE SEWER SERVICE HEREIN IS IRREVOCABLE SO LONG AS THE DEVELOPMENT OR PROJECT IS RECOGNIZED AS VIABLE BY THE COUNTY OF SAN LUIS OBISPO: HOWEVER, THE OBLIGATION OF THE DISTRICT TO PROVIDE SEWER SERVICE SHALL BEGIN TWELVE (12) MONTHS AFTER THE ANNEXATION BECOMES FINAL.

(Ord. 86-49 § 1, 1986)

- 4.16.020 Board discretion to provide earlier sewer service.**

Nothing in this chapter shall be construed

or applied at any time to prevent the district from providing sewer service to nonvolunteered or annexed property earlier than the expiration of the twelve-month period if the district's board of directors adopts a resolution at a public meeting finding that the connection rights of volunteers are adequately protected, and that the public health, safety and welfare is not endangered. The consideration or adoption of such a resolution shall be at the sole discretion of the board, and there shall be no legal right to require or demand that the board consider or adopt any such resolution prior to the expiration of the twelve-month period specified in an approval letter. All other things being equal, the board shall give priority to the applicants: (1) with property in the district, and (2) with the earliest payment date for all sewer system fees. (Ord. 86-49 § 2, 1986)

4.16.040 Tentative and final approval letters.

A. Tentative Approvals. The district's tentative consideration of any project will be based upon the review of project plans prepared in sufficient detail to allow the evaluation of service requirements, determination of impacts upon district facilities and an estimate of the total value of the improvements which will be required. After the completion of the district's evaluation of the proposed project, tentative letters of approval may be issued as follows:

1. Volunteers. The general manager shall issue a tentative letter of approval.

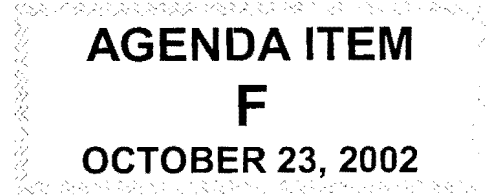
2. Nonvolunteers. After evaluation of the proposal at a public meeting, the board of directors may grant a tentative letter of approval, but only after finding that there is now, or will reasonably be in the future,

sufficient sewerage system capacity available to serve the project for which approval is being sought without jeopardizing the capacity which the board reserves for voluntary project participants.

No tentative approval shall be issued by the district prior to payment in full of the estimated plan check and inspection fees as determined by the general manager.

B. Final Approvals. The board of directors shall grant a final letter of approval upon the recommendation of the general manager, and after review of final plans at a public meeting. All appropriate fees, including, without limitation, sewer capacity charges, annexation fees, water system fees, plan check and inspection fees, shall be paid in full before the board grants final approval. (Ord. 95-82 § 19, 1995; Ord. 86-49 § 4, 1986)

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 23, 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 October 2, 2002, Regular Board meeting
- F-3) INVESTMENT POLICY-QUARTERLY REPORT [RECOMMEND ACCEPT AND FILE]

- WARRANTS OCTOBER 23, 2002

AGENDA ITEM
F-1
OCTOBER 23, 2002

HAND WRITTEN CHECKS

18563	10/02/02	STATE COMP	3025.54
18564	10/07/02	POSTMASTER	137.28

COMPUTER GENERATED CHECKS

7347	10/11/02	EMP01	EMPLOYMENT DEVELOP DEPT	410.95	.00	410.95	A20930	STATE INCOME TAX
7348	10/11/02	MID01	MIDSTATE BANK-PR TAX DEP	1578.97	.00	1578.97	A20930	FEDERAL INCOME TAX
				369.76	.00	369.76	1A20930	MEDICARE (FICA)
			Check Total.....:	1948.73	.00	1948.73		
7349	10/11/02	MID02	MIDSTATE BANK - DIRECT DP	11166.78	.00	11166.78	A20930	NET PAY DEDUCTION
7350	10/11/02	PER01	PERS RETIREMENT	1857.17	.00	1857.17	A21011	PERS PAYROLL REMITTANCE
7351	10/11/02	SIM01	SIMMONS, DEBRA	150.00	.00	150.00	A20930	WAGE ASSIGNMENT
7352	10/11/02	STA01	STATE STREET GLOBAL	735.00	.00	735.00	A20930	DEFERRED COMP
007353	10/23/02	BCS01	BASIC CHEMICAL SOLUTIONS	927.30	.00	927.30	52996	SODIUM HYPOCHLORITE BLWWT
				201.89	.00	201.89	52998	SODIUM HYPOCHLORITE - WEL
			Check Total.....:	1129.19	.00	1129.19		
007354	10/23/02	BLA01	BLAIR, ROBERT L	100.00	.00	100.00	102302	REG MEETING 10 23 02
007355	10/23/02	COM01	COMPUTER NETWORK SERVICES	487.74	.00	487.74	093002	NEW SERVER BUILDOUT
007356	10/23/02	COM02	COMMUNICATION SOLUTIONS	217.50	.00	217.50	3073	N OAKGLEN LIFT STN REPAIR
007357	10/23/02	COR01	CORBIN WILLITS SYSTEMS	250.00	.00	250.00	A20930	MOM SETUP WITH NEW SERVER
007358	10/23/02	COU01	COURIER SYSTEMS	70.00	.00	70.00	1247	COURIER TO LAB
007359	10/23/02	CRE01	CREEK ENVIRONMENTAL LABS	30.00	.00	30.00	J3684	BLWWT LAB
				30.00	.00	30.00	J3711	BL WWTP LAB
			Check Total.....:	60.00	.00	60.00		
007360	10/23/02	CUL02	CULLIGAN WATER CONDITION	26.30	.00	26.30	93675	DELIVERY
007361	10/23/02	DEW01	J B DEWAR INC	688.52	.00	688.52	734182	OIL FOR SUNDALE WELLS
007362	10/23/02	FGL01	FGL ENVIRONMENTAL	44.80	.00	44.80	209245	NIPOMO WWTP LAB
				44.80	.00	44.80	209247	BL WWTP LAB
				44.80	.00	44.80	209533	NIPOMO WWTP LAB
				44.80	.00	44.80	209780	BL WWTP LAB
				44.80	.00	44.80	209782	NIPOMO WWTP LAB
			Check Total.....:	224.00	.00	224.00		
007363	10/23/02	FRE01	FRED'S CUSTOM PAINTING	625.00	.00	625.00	6290	AIR VAC PAINTING MATER.
007364	10/23/02	GAR01	GARING TAYLOR & ASSOC	2009.00	.00	2009.00	2953	ENG FOR WOODLANDS
				690.25	.00	690.25	2954	TEFFT ST WATER LINE
				5201.98	.00	5201.98	2955	DANA FOOTHILL TANK SIT
				876.42	.00	876.42	2956	TEFFT ST LIFT STATION
			Check Total.....:	8767.65	.00	8767.65		
007365	10/23/02	GIL01	GLM	262.50	.00	262.50	092702	LANDSCAPE-OFFICE
				91.35	.00	91.35	092702-2	LANDSCAPE-BL WATER TF
			Check Total.....:	353.85	.00	353.85		
007366	10/23/02	GRO01	GROENIGER & CO	572.18	.00	572.18	195544B	MISC SUPPLIES
				1210.42	.00	1210.42	197820B	AIR VAC CAN
				27.74	.00	27.74	198243T	MISC SUPPLIES
			Check Total.....:	1810.34	.00	1810.34		

COMPUTER GENERATED CHECKS

007367	10/23/02	GSI01	GSI SOILS, INC.	520.00	.00	520.00	8140	SOIL TESTING-TEFFT WATER
007368	10/23/02	IKO01	IKON OFFICE SOLUTIONS	47.20	.00	47.20	16889845	COPIER MAINTENANCE
007369	10/23/02	JOH01	JOHNSON, DONNA	18.30	.00	18.30	0303	SCOTCH TAPE
007370	10/23/02	LOU01	LOUCK, PERRY CPA	3150.00	.00	3150.00	A21016	PROGRESS BILL-RATE STUDY
007371	10/23/02	MIS01	MISSION UNIFORM SERVICE	233.50	.00	233.50	093002	UNIFORMS ETC
007372	10/23/02	MOB01	MOBRAATEN, RICHARD	100.00	.00	100.00	102302	REG MEETING 10 23 02
007373	10/23/02	NIP01	NIPOMO ACE HARDWARE INC	28.90	.00	28.90	330584	MISC SUPPLIES
007374	10/23/02	NIP02	NIPOMO GARBAGE	14.99	.00	14.99	1802-10	TRASH SERVICE
007375	10/23/02	NIP03	NIPOMO SHELL	612.70	.00	612.70	174658	FUEL-SEPTEMBER
007376	10/23/02	PAC01	PACBELL/WORLDCOM	41.53	.00	41.53	T0714246	PHONE
				80.99	.00	80.99	T0714248	PHONE SERVICE
				53.47	.00	53.47	T0714249	PHONE - SHOP
			Check Total.....:	175.99	.00	175.99		
007377	10/23/02	PRE01	PRECISION JANITORIAL	275.00	.00	275.00	106	JANITORIAL SERVICE FOR SE
007378	10/23/02	PUL01	PULITZER CENTRAL COAST NP	78.00	.00	78.00	121106	LEGAL NOTICE-SOLID WASTE
				42.00	.00	42.00	132846	PUBLIC NOTICE - NEG DEC F
			Check Total.....:	120.00	.00	120.00		
007379	10/23/02	QUI01	QUILL CORPORATION	55.48	.00	55.48	5996404	MISC SUPPLIES
007380	10/23/02	QUI02	QUINN ENGINE SYSTEMS	754.08	.00	754.08	33001769	SUNDALE WELL REPAIR
007381	10/23/02	QUI03	QUINN RENTAL SERVICES	93.26	.00	93.26	2037771	FH ADAPTOR
007382	10/23/02	REL01	RELIABLE	143.72	.00	143.72	XW143100	MISC SUPPLIES
007383	10/23/02	RIC01	RICHARDS, WATSON, GERSHON	29016.46	.00	29016.46	123054	WATER RIGHTS ADJUDICATION
007384	10/23/02	SAI01	SAIC	2166.49	.00	2166.49	399443	SMV GROUNDWATER BASIN LIT
007385	10/23/02	SLO02	DIV OF ENVIRON HEALTH	449.00	.00	449.00	IN0021187	LAB TESTS
007386	10/23/02	STA04	STATE DEPT OF HEALTH SERV	80.00	.00	80.00	21852	OPERATOR CERTIFICATION RE
007387	10/23/02	THE01	THE GAS COMPANY	5654.46	.00	5654.46	502817509	SUNDALE WELL GAS 086 192
007388	10/23/02	TRO01	TROTTER, CLIFFORD	100.00	.00	100.00	102302	REG MEETING 10 23 02
007389	10/23/02	VER01	VERIZON	28.68	.00	28.68	091902	BL PHONE 01 1730 11462442
				28.94	.00	28.94	091902-2	BL PHONE 011730 114623601
			Check Total.....:	57.62	.00	57.62		
007390	10/23/02	WHI01	WHITAKER CONTRACTORS INC.	79708.67	.00	79708.67	0220-01	PROGRESS BILL #1-TEFFT ST
007391	10/23/02	WIN01	WINN, MICHAEL	100.00	.00	100.00	102302	REG MEETING 10 23 02
007392	10/23/02	WIR02	WIRSING, JUDY	100.00	.00	100.00	102302	REG MEETING 10 23 02
007393	10/23/02	\D002	DEBLAUW BUILDERS INC,	487.00	.00	487.00	000A21101	MQ CUSTOMER REFUND
007394	10/23/02	\F002	PAPICH CONSTRUCTION,	452.03	.00	452.03	000A21101	MQ CUSTOMER REFUND

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

OCTOBER 2, 2002

REGULAR MEETING 9:00 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

A. CALL TO ORDER AND FLAG SALUTE

President Mobraaten called the meeting to order at 9:04 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.

There was no public comment.

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

D-1) DE-SAL PRESENTATION – BOYLE ENGINEERING

Mr. Ernie Kartinen will make a presentation on De-Salination

Mr. Ernie Kartinen, from Boyle Engineering, gave a presentation about De-Salination. When asked how to get started in the process of creating a de-sal unit, he suggested a feasibility study for sites, etc.

The following members of the public spoke:

Ed Eby, 520 Camino Roble – Inside District – Asked if the cost in the presentation included the pumping cost. Answer-No

Jesse Hill, 1910 Grant Ave, AG – Outside District – Asked if there have been problems with going across public lands, such as parks, etc. Answer-Takes permitting time

Mr. Kartinen was thanked for the presentation.

D-2) REQUEST FOR SERVICE – APN 091-240-024 (MONEY)

Renewal request for water service for an 8½ acre parcel at 1112 Pomeroy Rd

The Board discussed the request for a renewal of an Intent-to-Serve letter for water service to 1112 Pomeroy Road. There was no public comment. Upon motion of Director Blair and seconded by Director Winn, the Board unanimously agreed to issue an Intent-to-Serve letter to Mr. Joe Money for water service to APN 091-240-024, with the conditions as outlined in the Board letter.

D-3) REQUEST FOR SERVICE – TRACT 2456 (KING VENTURES)

Request for water service for a 41 unit residential development at Division and S. Frontage Rds.

The Board discussed the project Tract 2456.

The following members of the public spoke:

Jesse Hill, 1910 Grant Ave, AG – Outside District – The NCAC approved the original design of the combined tracts of 2399 and 2456.

Upon motion of Director Winn and seconded by Director Wirsing, the Board unanimously agreed to continue this item until a representative from King Ventures comes to the meeting. Vote 5-0.

- D-4) REQUEST FOR SERVICE – TRACT 2381 (NESTER)
Request for water and sewer service for a 21 unit residential development at Pomeroy and Willow Rds.

The Board discussed a request for water and sewer service from Greg Nester Construction & Development, Inc. for Tract 2381.

The following members of the public spoke:

Larry Vierheilig, 950 Waypoint, Inside District – This project was approved by NCAC

John Eppard, 1505 Champion Lane, Inside District – Thought this project was Phase 5 of the original Specific Plan for Blacklake.

Jesse Hill, 1910 Grant Ave, AG – Outside District – This project was approved by the Board of Supervisors.

Upon motion of Director Blair and seconded by Director Winn, the Board agreed to issue an Intent-to-Serve letter for Tract 2381 with the conditions as outlined in the Board letter. Vote 4-1 with Director Wirsing voting no because of her continued concern for the water supply with Woodlands coming in and their wells could impact Blacklake's water supply. Director Trotter voted yes but is still concerned about the overall water supply for the community.

- D-5) DANA-FOOTHILL WATER STORAGE FACILITY – ENVIRONMENTAL REVIEW
Set a Public Hearing for an environmental review of a one million gallon storage facility at the Dana-Foothill site

The Board discussed the need to hold a public hearing for the Dana-Foothill Water Storage Facility. Director Wirsing was concerned about page 3 of the Initial Study relating to restrictions on growth. It was explained that the 2.3% growth cap is a County mandated restriction, not a District restriction. There was no public comment.

Upon motion of Director Winn and seconded by Director Blair, the Board unanimously agreed to tentatively approve the Dana-Foothill Water Storage Site Initial Study and set a Public Hearing for November 6, 2002, for the environmental review of this project. Vote 5-0

- D-6) WOODLANDS PROJECT (PH PROPERTY DEV. CO.)
Review SLO County Planning Commission staff report & other correspondence on the Woodlands Project

Jon Seitz, District Legal Counsel presented information of the Planning Commission meeting last Thursday, Sept 26th. All the items were continued to the October 24th meeting. Mr. Seitz read a portion of Government Code Section 66473.7

“Sufficient water supply” means the total water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection that will meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses, including, but not limited to, agricultural and industrial uses. In determining “sufficient water supply,” all of the following factors shall be considered. (copy in full section attached to Minutes)

The following members of the public spoke:

Larry Vierheilig, 950 Waypoint, Inside District – Asked about the amount of leakage in the District. He felt that the retrofit program does not really save much water. The mitigation measures require proof that the Woodlands project causes water demise.

Jesse Hill, 1910 Grant Ave, AG – Outside District – Talked about SB 221 Section 4 and Water Code 10910. Woodlands developer must ask for letter from the public water provider's for water supply.

There was much Board discussion.

D-6) WOODLANDS PROJECT (PH PROPERTY DEV. CO.) continued.....

Upon motion of Director Winn and seconded by Director Trotter, the Board agreed to

- Approve staff's recommendation to present the objections as we have discussed;
- Approve retaining District's consulting engineer to provide written report on potential of District wells being affected by cumulative water interference. This has to do with the compliance of the SEIR;
- Retain District's consulting engineer to provide written report related to the substituted retrofit program that was supposed to save 165 ac/ft.;
- Retain District Special Legal Counsel to appear at the hearing on October 24th to supplement the administrative record on our objections under Government Code Section 66473.7 and the applicable Water Code Section 10910.

Vote 4-1 with Director Blair voting no.

E. OTHER BUSINESS

E-1) BOARD OF DIRECTORS MEETING DATES

Cancel October 16 and schedule a meeting for October 23, 2002

It was suggested to move the October 16th regular meeting to October 23, 2002, due to staff attending a AWWA conference. There was no public comment.

Upon motion of Director Wirsing and seconded by Director Winn, the Board unanimously agreed to cancel the October 16, 2002, meeting and reschedule the regular meeting for October 23, 2002.

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 September 18, 2002, Regular Board meeting

F-3) ACCEPT WATER/SEWER IMPROVEMENTS TRACT 2409 (EDWARDS) [RECOMMEND APPROVAL]
Resolution accepting improvements for a 28-lot development at Tejas and Vista Verde

There was no public comment.

RESOLUTION NO. 2002-837

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ACCEPTING THE WATER AND SEWER IMPROVEMENTS FOR TRACT 2409 (EDWARDS)

Upon motion of Director Blair and seconded by Director Wirsing, the Board unanimously approved the Consent Agenda with the Minutes amended in D-4, as requested by Director Winn. Vote 5-0

G. **MANAGER'S REPORT**

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

G-1) DISTRICT ACTIVITIES

H. **COMMITTEE REPORTS**

There was no committee report.

I. **DIRECTORS COMMENTS**

Director Blair relayed some information learned at the CSDA seminar in San Diego attended by Mr. Jones, Mr. Seitz and himself.

Director Winn will be attending the WRAC meeting in SLO

District customers, who are property owners with small parcels or no wells, are asking what kind of response to lawsuit service can be given to water litigation lawyers.

Asked that an item concerning ministerial approval be put on the agenda for general discussion.

Jon Seitz, District Legal Counsel, announced the need to go into Closed Session to discuss the following.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

- A. SMVWCD VS NCSO SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.
- B. SAVE THE MESA VS. NCSO CV 020181
- C. ARNETT, ETAL VS CALPERS CASE #C95-3022CRB
- D. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR - DOUG JONES, COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE. POSSIBLE LITIGATION INITIATION GC§549569

The Board came back into Open Session and announced the following:

On a 5-0 vote, the Board unanimously agreed to join the Class Action suit in Item C above.

ADJOURN

President Mobraaten adjourned the meeting at 12:26 P.M.

The next regular Board Meeting is scheduled for October 23, 2002, at 9:00 a.m.

Historical and Statutory Notes

2001 Legislation
Short title, legislative findings, declarations and intent relating to Stats.2001, c. 176 (S.B.210), the Local Govern-

ment Omnibus Act of 2001, see Historical and Statutory Notes under Civil Code § 1360.5.

Cross References

Documents recordable without acknowledgement, certificate of correction, see Government Code § 27282.

Chapter 4

REQUIREMENTS

Article 1

GENERAL

Section		Section
66473.1.	Provision for future passive or natural heating or cooling opportunities in design.	resulting parcels too small to sustain agricultural use or there will be certain residential development; denial of approval of tentative map or parcel map; homesite parcels; minimum parcel size.
66473.7.	Water supply; availability; conditions for map approval; verification; exception.	
66474.4.	Land subject to contract pursuant to California Land Conservation Act and	66474.5. Repealed.

§ 66473.1. Provision for future passive or natural heating or cooling opportunities in design

(a) The design of a subdivision for which a tentative map is required pursuant to Section 66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

(b)(1) Examples of passive or natural heating opportunities in subdivision design, include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.

(2) Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

(c) In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and that provision shall not result in reducing allowable densities or the percentage of a lot that may be occupied by a building or structure under applicable planning and zoning in effect at the time the tentative map is filed.

(d) The requirements of this section do not apply to condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added.

(e) For the purposes of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(Amended by Stats.2001, c. 873 (S.B.497), § 3.)

Library References

Legal Jurisprudences

Cal Jur 3d Real Est Topics §§ 1049, 1094.

Treatises and Practice Aids

Witkin, Summary (9th ed) Real Prop § 49.

Miller & Starr, Cal Real Estate 2d § 20:93.

§ 66473.7. Water supply; availability; conditions for map approval; verification; exception

(a) For the purposes of this section, the following definitions apply:

(1) "Subdivision" means a proposed residential development of more than 500 dwelling units, except that for a public water system that has fewer than 5,000 service connections, "subdivision" means any

Additions or changes indicated by underline; deletions by asterisks * * *

proposed residential development that would account for an increase of 10 percent or more in the number of the public water system's existing service connections.

(2) "Sufficient water supply" means the total water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection that will meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses, including, but not limited to, agricultural and industrial uses. In determining "sufficient water supply," all of the following factors shall be considered:

(A) The availability of water supplies over a historical record of at least 20 years.

(B) The applicability of an urban water shortage contingency analysis prepared pursuant to Section 10632 of the Water Code that includes actions to be undertaken by the public water system in response to water supply shortages.

(C) The reduction in water supply allocated to a specific water use sector pursuant to a resolution or ordinance adopted, or a contract entered into, by the public water system, as long as that resolution, ordinance, or contract does not conflict with Section 354 of the Water Code.

(D) The amount of water that the water supplier can reasonably rely on receiving from other water supply projects, such as conjunctive use, reclaimed water, water conservation, and water transfer, including programs identified under federal, state, and local water initiatives such as CALFED and Colorado River tentative agreements, to the extent that these water supplies meet the criteria of subdivision (d).

(3) "Public water system" means the water supplier that is, or may become as a result of servicing the subdivision included in a tentative map pursuant to subdivision (b), a public water system, as defined in Section 10912 of the Water Code, that may supply water for a subdivision.

(b)(1) The legislative body of a city or county or the advisory agency, to the extent that it is authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, shall include as a condition in any tentative map that includes a subdivision a requirement that a sufficient water supply shall be available. Proof of the availability of a sufficient water supply shall be requested by the subdivision applicant or local agency, at the discretion of the local agency, and shall be based on written verification from the applicable public water system within 90 days of a request.

(2) If the public water system fails to deliver the written verification as required by this section, the local agency or any other interested party may seek a writ of mandamus to compel the public water system to comply.

(3) If the written verification provided by the applicable public water system indicates that the public water system is unable to provide a sufficient water supply that will meet the projected demand associated with the proposed subdivision, then the local agency may make a finding, after consideration of the written verification by the applicable public water system, that additional water supplies not accounted for by the public water system are, or will be, available prior to completion of the subdivision that will satisfy the requirements of this section. This finding shall be made on the record and supported by substantial evidence.

(4) If the written verification is not provided by the public water system, notwithstanding the local agency or other interested party securing a writ of mandamus to compel compliance with this section, then the local agency may make a finding that sufficient water supplies are, or will be, available prior to completion of the subdivision that will satisfy the requirements of this section. This finding shall be made on the record and supported by substantial evidence.

(c) The applicable public water system's written verification of its ability or inability to provide a sufficient water supply that will meet the projected demand associated with the proposed subdivision as required by subdivision (b) shall be supported by substantial evidence. The substantial evidence may include, but is not limited to, any of the following:

(1) The public water system's most recently adopted urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) A water supply assessment that was completed pursuant to Part 2.10 (commencing with Section 10910) of Division 6 of the Water Code.

(3) Other information relating to the sufficiency of the water supply that contains analytical information that is substantially similar to the assessment required by Section 10635 of the Water Code.

(d) When the written verification pursuant to subdivision (b) relies on projected water supplies that are not currently available to the public water system, to provide a sufficient water supply to the subdivision, the written verification as to those projected water supplies shall be based on all of the following elements, to the extent each is applicable:

subject to a written agreement for joint management pursuant to Section 10635 of the Water Code, or

AGENDA ITEM

F-3

OCTOBER 23, 2002

TO: BOARD OF DIRECTORS

FROM: DOUG JONES

DATE: OCTOBER 23, 2002

INVESTMENT POLICY - QUARTERLY REPORT

The Board of Directors have adopted an Investment Policy for NCSD which states that the Finance Officer shall file a quarterly report that identifies the District's investments and their compliance with the District's Investment Policy. The quarterly report must be filed with the District's auditor and considered by the Board of Directors.

Below is the September 30, 2002 Quarterly Report for your review. The Finance Officer is pleased to report to the Board of Directors that the District is in compliance with the Investment Policy.

After Board consideration and public comment, it is recommended that your Honorable Board accept the quarterly report by motion and minute order.

NIPOMO COMMUNITY SERVICES DISTRICT
INVESTMENT POLICY - QUARTERLY REPORT 9/30/02

The District's investments are as follows:

TYPE OF INVESTMENT	INSTITUTION	DATE OF MATURITY	AMOUNT OF DEPOSIT 9/30/02	RATE OF INTEREST	ACCRUED 09/30/01	AMOUNT OF DEPOSIT 9/30/01	RATE OF INTEREST	ACCRUED INTEREST 9/30/01
Money Market Checking	Mid-State Bank	n/a	\$43,216.59	0.50%	\$0.00	\$36,289.64	0.50%	\$0.00
Savings	Mid-State Bank	n/a	\$882.77	2.00%	\$0.00	\$873.99	2.00%	\$0.00
Pooled Money Investment	Local Agency Investment Fund	n/a	\$11,960,939.44	2.63%	\$78,026.23	\$8,939,120.73	4.47%	\$99,551.13

n/a = not applicable

As District Finance Officer and Treasurer, I am pleased to inform the Board of Directors that the District is in compliance with the 2002 Investment Policy and that the objectives of safety, liquidity, and yield have been met. The District has the ability to meet cash flow requirements for the next six months.

Respectfully submitted,

Doug Jones
General Manager and
Finance Officer/Treasurer

TO: BOARD OF DIRECTORS
FROM: DOUG JONES /D
DATE: OCTOBER 23, 2002

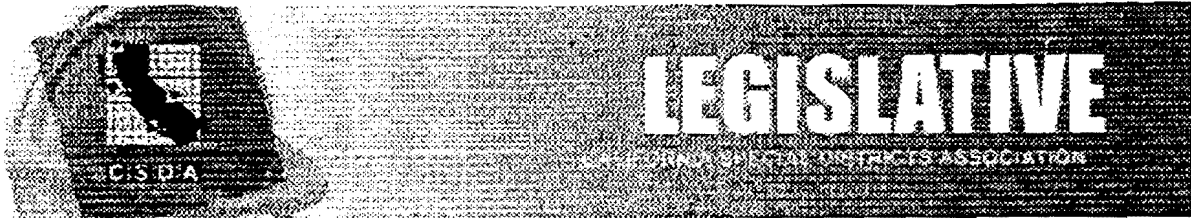
**AGENDA ITEM
G
OCTOBER 23, 2002**

MANAGER'S REPORT

G-1 LEGISLATIVE REVIEW

- Attached is the Legislative update from the California Special Districts Association which outlines a several bills that have been signed into law and those vetoed by the Governor.
- Enclosed is text of SB 1586, which requires special districts to document why they block annexations.
- SB 1326, the Local Government Omnibus Act of 2002, was signed into law by the Governor on September 10, 2002. This adds to Government Code Section 61601.20 (enclosed), which allows this the District to exercise street landscaping powers.

Board 2002\mgr 102302.DOC



CALIFORNIA SPECIAL DISTRICTS ASSOCIATION LEGISLATIVE UPDATE
Friday, October 4, 2002

The Year in Review

Now that the deadline has passed for the Governor to take action on any bills sent to his desk, we have an opportunity to look at the year's legislation as a complete whole.

Over the course of the 2001-2002 legislative session, the Assembly introduced 3,403 bills and the Senate chipped in with 2,310 of its own. In 2002 alone, the Governor signed 1170 bills into law, 687 of which originated in the Assembly and 483 coming from the Senate. The Governor vetoed 166 Assembly bills and 97 Senate bills.

One of special districts' major victories was the ferocious budget battle caused by a mammoth \$24 billion deficit. Special districts came out relatively unscathed, and although the counties took a bit of a hit (to the tune of \$1 billion) and redevelopment agencies lost about \$50 million, local government was not bilked for nearly as much as was feared when budget talks began. This is thanks in large part to the unflagging efforts of the LOCAL Coalition, a joint effort created by CSDA, the California State Association of Counties and the League of California Cities, and subsequently joined by innumerable other organizations.

But is the fight over? Not by any means! Next year looks to be an even fiercer struggle for quickly disappearing funds, and CSDA and the LOCAL Coalition are resolved to continue the good fight. If you would like to be a part of the effort to keep community assets local by participating in media editorial boards, regional planning boards, rallies and the like, please call CSDA toll-free at 877.924.CSDA. You can also be a member of CSDA's Legislative Committee; look for information on how to participate in the upcoming November edition of the CSDA News.

To find more information (such as the text or status) on any of the bills listed below, or bills that your district was following that aren't listed below, visit the 'Members Only' section of the CSDA website (www.csda.net) and click on 'Search for Legislation.'

Here's a brief look at some of the bills that were signed that affect special districts:

- SB 1586 requires special districts to document why they block annexations
- SB 1384 and AB 1948 change the formulas used by independent special districts to pay their shares of LAFCOs' budgets, including limiting any one district to 50% of the districts' share
- SB 1643 amends the Brown Act to allow a legislative body to hold a closed session during an emergency meeting and AB 2645 expands the list of personnel or consultants allowed in closed sessions that relate to security matters
- AB 1945 amends the Brown Act to prohibit disclosing confidential information from a closed session unless the legislative body authorizes the disclosure
- SB 1961 requires the Department of General Services to write standards into the State Administrative Manual telling agencies how to comply with Prop. 218
- SB 1588 revises the state laws governing mosquito abatement districts

The Governor also vetoed several bills that would have affected special districts, such as these:

- AB 1986 would have eliminated the prohibition of local agency elective or appointive officials from obtaining retirement coverage under the California Public Employees' Retirement System (there were several other CalPERS bills as well; please refer to the October issue of the CSDA News for more information)
- AB 1939 would have required the Legislative Analysts' Office (LAO) to study a property tax shift mechanism, intended to provide relief to local governments and to incentivize the construction of affordable housing

The Senate Local Government Committee has just released "Taking Their Pulse: How LAFCOs Implemented AB 2838 (Hertzberg, 2000)," the result of Senator Torlakson's LAFCO survey. Single copies are \$3.23 (including shipping and sales tax). You can order your copy of *Taking Their Pulse* directly from:

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814

Make checks payable to "Senate Rules Committee" and request report number 1176-S.

If you or members of your Board or staff would like to begin receiving this notice via email, please contact Geoffrey Neill at 877.924.CSDA or gneill@cdda.net.

****This update is brought to you exclusively as a CSDA member benefit.**
CSDA...keeping special districts informed!**

1215 K Street, Suite 930 * Sacramento, CA 95814
(916) 442-7887 * (916) 442-7889 fax
(877) 924-CSDA * www.cdda.net

CHAPTER 547

An act to amend Section 56857 of the Government Code, relating to local agency formation.

[Approved by Governor September 13, 2002. Filed with Secretary of State September 15, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1586, Haynes. District annexations.

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, when any district to which annexation of territory is proposed has adopted and transmitted to the local agency formation commission a resolution requesting termination of proceedings within a prescribed time period, the commission is required to terminate the proceedings.

This bill instead would require the commission to terminate the proceedings after consideration of the district's resolution, which shall be based upon written findings supported by substantial evidence in the record that the request is justified by financial or service concerns, as defined. The bill would make the district's resolution subject to judicial review. The bill would make these provisions inapplicable if all districts to which annexation of territory is proposed have adopted and transmitted to the commission resolutions supporting the proposed change of organization or reorganization. The bill would make other conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 56857 of the Government Code is amended to read:

56857. (a) Upon receipt by the commission of a proposed change of organization or reorganization that includes the annexation of territory to any district, if the proposal is not filed by the district to which annexation of territory is proposed, the executive officer shall place the proposal on the agenda for the next commission meeting for information purposes only, and shall transmit a copy of the proposal to any district to which an annexation of territory is requested.

(b) No later than 60 days after the date that the proposal is on the commission's meeting agenda in accordance with subdivision (a), any district to which annexation of territory is proposed may adopt and

transmit to the commission a resolution requesting termination of the proceedings. The resolution requesting termination of the proceedings shall be based upon written findings supported by substantial evidence in the record that the request is justified by financial or service related concern. Prior to the commission's termination of proceedings pursuant to subdivision (c), the resolution shall be subject to judicial review.

(c) If any district to which annexation of territory is proposed has adopted and transmitted to the commission a resolution requesting termination of proceedings within the time period prescribed by, and in accordance with, subdivision (b), and if the commission has not been served with notice that judicial review of that resolution is being sought pursuant to subdivision (b), then the commission shall terminate the proceedings no sooner than 30 days from receipt of the resolution from the district.

(d) For purposes of an annexation to a district pursuant to this section or Section 56668.3:

(1) "Financial concerns" means that the proposed uses within the territory proposed to be annexed do not have the capacity to provide sufficient taxes, fees, and charges, including connection fees, if any, to pay for the full cost of providing services, including capital costs. Cost allocation shall be based on generally accepted accounting principles and shall be subject to all constitutional and statutory limitations on the amount of the tax, fee, or charge.

(2) "Service concerns" means that a district will not have the ability to provide the services that are the subject of the application to the territory proposed to be annexed without imposing level of service reductions on existing and planned future uses in the district's current service area. "Service concerns" does not include a situation when a district has the ability to provide the services or the services will be available prior to the time that services will be required.

(3) A district may make findings regarding financial or service concerns based on information provided in the application and any additional information provided to the district by the commission or the applicant that is relevant to determining the adequacy of existing and planned future services to meet the probable future needs of the territory. Findings related to service or financial concerns may be based on an urban water management plan, capital improvement plan, financial statement, comprehensive annual financial report, integrated resource management plan, or other information related to the ability of a district to provide services.

(4) Nothing in this section shall be construed to create a right or entitlement to water service or any specific level of water service.

(5) Nothing in this section is intended to change existing law concerning a public water system's obligation to provide water service to its existing customers or to any potential future customers.

(c) This section shall not apply if all districts to which annexation of territory is proposed have adopted and transmitted to the commission resolutions supporting the proposed change of organization or reorganization.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

SEC. 23.5. Section 61601.20 is added to the Government Code, to read:

61601.20. Notwithstanding Sections 61600 and 61601, whenever the Board of Directors of the Nipomo Community Services District determines, by resolution, that it is feasible, economically sound, and in the public interest for the district to exercise its powers for the purpose of installing or planting and maintaining landscaping within public street rights-of-way or easements within the district, the board may adopt that additional purpose by resolution, and thereafter the powers of the district may be exercised for that purpose. The district shall, for the purpose of installing or planting and maintaining landscaping, be authorized to provide for and accomplish that purpose through proceedings pursuant to the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code). Prior to imposing any assessments authorized by this section, the district shall comply with Article XIII D of the California Constitution.

SEC. 23.7. Section 5786.7 of the Public Resources Code is amended to read:

5786.7. Notwithstanding any other provision of law:

(a) If a majority of the voters voting on the question at a general district or special district election are in favor, the Parker Dam Recreation and Park District may do all of the following: