


TO: BOARD OF DIRECTORS
FROM: DOUG JONES 
DATE: JANUARY 8, 2003

AGENDA ITEM
D1
JANUARY 8, 2003

**WATER AND WASTEWATER
PROPOSED RATE INCREASE
PUBLIC HEARING**

ITEM

Second reading and adoption of an ordinance to increase water and wastewater rates and capacity fees

BACKGROUND

At the regular Board meeting held on December 18, 2002, your honorable Board had the introduction and first reading of an ordinance to increase the water and wastewater rates and the capacity fees.

The rates and fees have been published in the newspaper and now is the time for the District to hold a public hearing to receive input prior to the second reading and the adoption of the ordinance to adjust water and wastewater rates

RECOMMENDATION

After the Public Hearing is closed, staff recommends that your Honorable Board have the second reading and adoption of the Ordinance 2003-94 increasing water and wastewater rates and capacity fees.

**ORDINANCE NO. 2003-RATES
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE NIPOMO COMMUNITY SERVICES DISTRICT CODE TO**
(1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;
(2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND
REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
(1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;
(2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND
(3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES**

WHEREAS, it is a major responsibility of the Nipomo Community Services District (District) to maintain adequate levels of revenue, equitably collected from all classes of utility customers, to meet the District's financial commitments; and

WHEREAS, the District commissioned Perry R. Louck, Certified Public Accountant, to perform a WATER AND WASTEWATER RATE STUDY UPDATE (herein the STUDY). The STUDY includes an analysis of both the water and wastewater operating and non operating rates and charges for the Town Division and Blacklake Divisions. The intent of the STUDY is to assess the District's revenue requirements and to provide an independent evaluation of the equity of the District's current rate structure. The STUDY further identifies a new rate structure for the Town Division and Blacklake Division that enables the District to meet revenue requirements, provide for replacement of aging facilities and to maintain fairness and equity among ratepayers; and

WHEREAS, the STUDY was received and filed on December 20, 2002 and has been available for public inspection at the District office since that date; and

WHEREAS, based upon facts and analysis presented by Perry R. Louck, the STUDY, the Staff Report, and public testimony received, the Board of Directors finds:

- A. The public meetings adopting this Ordinance have been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act); and
- B. That notice has been provided pursuant to Government Code Sections 54354.5 and 66016; and
- C. The fees, rates and charges that are the subject of this Ordinance do not exceed the estimated reasonable cost of providing the services for which the fees and/or charge or charges are imposed; and
- D. That the public benefits from the logical, long-range approach to financing of public facilities:

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

Section 1. Authority.

This Ordinance is enacted pursuant to Government Code Sections 61600(a) and (b), 61621, 61621.5, 61623, 66013 and 66016.

Section 2.

Appendices A and B to Chapter 3.03 of the District Code are repealed in their entirety and replaced with the bimonthly rates and charges reflected in Exhibit A attached hereto and incorporated into this Ordinance by reference.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO

- (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;
- (2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND
- (3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE TWO

Section 3.

Appendix A to Chapter 3.04 is hereby repealed in its entirety and replaced with the capacity charges reflected in Exhibit B attached hereto and incorporated into this Ordinance by reference.

Section 4.

Exhibit B to Chapter 4.12 of the District Code is hereby repealed in its entirety and replaced with Appendix A the bimonthly rates and charges reflected in Exhibit C attached hereto and incorporated into this Ordinance by reference.

Section 5.

Exhibit A to Chapter 4.12 is hereby repealed in its entirety and replaced with Appendix B the capacity charges reflected in Exhibit D attached hereto and incorporated in this Ordinance by reference.

Section 6.

Section 3.04.140(B)(2) and (3), Private Fire Service monthly standby charges and capacity charges are reaffirmed by this Ordinance.

Section 7.

Section 3.04.050 (A), (C) and (D) reference to installation fee is shall be removed.

Section 8.

Section 3.03.180 (B)(2) is repealed in its entirety and replaced with the following:

District sewer charges are set forth in Appendix A of Chapter 4.12 of the District Code.

Section 9. Repeal of Prior Ordinances and Resolutions

All Ordinances, sections of Ordinances and Resolutions that are inconsistent with this ordinance are hereby repealed.

Section 10. Effect of Repeal on Past Actions and Obligations.

This Ordinance does not affect prosecutions for Ordinance violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any Ordinance.

Section 11. CEQA Findings

The Board of Directors of the District finds that the fees and charges adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The Board of Directors further finds that the adoption of the Rules and Regulations established by this Ordinance fall within the activities

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
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PAGE TWO

described in Section 15378(b)(3) of the CEQA Guidelines which are deemed not to be "projects" for the purposes of CEQA, because it can be seen with certainty that the adoption of the Rules and Regulations may have a significant effect on the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 12. Severance Clause.

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, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 13. Effect of Headings in Ordinance.

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.

Section 14. 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 the Five Cities Times Press Recorder.

Introduced at a special meeting of the Board of Directors held on December 20, 2002 and passed and adopted by the Board of Directors of the Nipomo Community Services District on the day of January 8, 2003, by the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAINING:

Michael Winn, 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

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE**

NIPOMO COMMUNITY SERVICES DISTRICT CODE TO

- (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;
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(3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE TWO

EXHIBIT A

WATER RATES AND CHARGES

APPENDIX A TO CHAPTER 3.03

Bi-Monthly Minimum Charge

The bi-monthly minimum charge will take effect 30 days after Ordinance is passed. The future increases shall take effect on **January 1st** of each year.

TOWN DIVISION*

SIZE OF METER	2003	2004	2005	2006	2007	2008
1 INCH OR LESS	\$11.18	\$12.94	\$14.72	\$14.86	\$15.00	\$15.14
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ INCH	\$25.34	\$29.30	\$33.66	\$38.46	\$43.74	\$49.56
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 INCH	\$35.18	\$40.68	\$46.76	\$53.42	\$60.76	\$68.82
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$19.92	\$19.92
3 INCH	\$49.28	\$57.00	\$65.50	\$74.84	\$85.09	\$96.42
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 INCH	\$64.00	\$74.00	\$85.00	\$97.10	\$110.40	\$125.06
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 INCH	\$105.42	\$121.92	\$140.08	\$160.04	\$182.00	\$206.16
Litigation Charge	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58
8 INCH	\$120.42	\$139.25	\$160.00	\$182.82	\$207.90	\$235.50
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

BLACKLAKE DIVISION*

SIZE OF METER	2003	2004	2005	2006	2007	2008
1 INCH OR LESS	\$6.68	\$9.90	\$11.54	\$11.92	\$12.30	\$12.68
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ INCH	\$15.64	\$18.64	\$21.94	\$25.56	\$29.56	\$33.94
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 INCH	\$22.08	\$26.28	\$30.90	\$35.98	\$41.56	\$47.72
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$19.92	\$19.92
3 INCH	\$32.08	\$38.08	\$44.68	\$51.94	\$59.92	\$68.70
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 INCH	\$54.00	\$63.00	\$72.90	\$83.80	\$95.76	\$108.94
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 INCH	\$90.42	\$105.42	\$121.92	\$131.58	\$151.54	\$173.50
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

*The above bi-monthly minimum charge reflects the adjusted rate established by Ordinance 2002- to meet the district's financial obligations relating to the lawsuit entitled Santa Maria Valley Water Conservation District v. the City of Santa Maria, the Nipomo Community Services District, et al. When the district financial obligations regarding this lawsuit have been satisfied, the above litigation charge will be removed.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
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- (3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE TWO

EXHIBT A (CONTINUED)

APPENDIX B TO CHAPTER 3.03

Bi-Monthly Water Rates

The bi-monthly water rates will take effect 30 days after Ordinance is passed. The future increases shall take effect on **January 1st** of each year.

TOWN DIVISION

	2003	2004	2005	2006	2007	2008	2009
0 – 40 UNITS	\$0.95	\$1.01	\$1.07	\$1.08	\$1.10	\$1.10	\$1.10
OVER 40 UNITS	\$1.42	\$1.51	\$1.64	\$1.65	\$1.66	\$1.67	\$1.68

BLACKLAKE DIVISION

All increases shall take effect on **January 1st** of each year.

	2003	2004	2005	2006	2007	2008	2009
0 – 40 UNITS	\$0.75	\$0.75	\$0.75	\$0.75	\$0.76	\$.81	\$0.81
OVER 40 UNITS	\$1.15	\$1.15	\$1.15	\$1.15	\$1.17	\$1.20	\$1.24

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
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**PAGE TWO
EXHIBIT B**

APPENDIX A TO CHAPTER 3.04

Standard Schedule for Town Water Capacity and Connection Fees

The water capacity charge will take effect 60 days after Ordinance is passed. The future increases will take effect on July 1st of the year:

	AWWA C701-88 CAPACITY GPM	CAPACITY EQUIVALENT	2003	2004	2005	2006	2007
1 Inch or less	30	1.00	\$3,690.00	\$3,801.00	\$3,915.00	\$4,032.00	\$4,152.00
1 ½ Inch	100	3.33	\$12,287.70	\$12,657.33	\$13,036.95	\$13,426.56	\$13,826.16
2 Inch	160	5.33	\$19,667.70	\$20,259.33	\$20,866.95	\$21,490.56	\$22,130.16
3 Inch	350	11.67	\$43,062.30	\$44,357.67	\$45,688.05	\$47,053.44	\$48,453.84
4 Inch	600	20.00	\$73,800.00	\$76,020.00	\$78,300.00	\$80,640.00	\$83,040.00
6 Inch	1250	41.67	\$153,762.30	\$158,387.67	\$163,138.05	\$168,013.44	\$173,013.84

Standard Schedule for Meter Fees and Account Fees are established as follows:

Meter Size	Meter Fee	Account Fee
1 Inch or Less	\$275.00	\$10.00
1 ½ Inch	\$555.00	\$10.00
2 Inch	\$615.00	\$10.00
3 Inch or larger	At Cost	\$10.00

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95

- AN ORDINANCE OF THE BOARD OF DIRECTORS
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PAGE TWO
EXHIBIT C

Appendix to Chapter 4.12

Appendix A

Bi-Monthly Sewer User Fees

All increases shall take effect on July 1st of each year.

TOWN DIVISION

	2003	2004	2005	2006	2007
PER DUE	\$36.86	\$37.22	\$37.60	\$37.98	\$38.78

Montecito Verde II Sewer Maintenance District \$28.00 per DUE (See Footnote 1)

Footnote 1: Upon connection to the Town Division Wastewater Treatment Plant, the Montecito Verde II operation and maintenance charge shall be the same as the charges collected from sewer customers in the Town Division.

BLACK LAKE DIVISION

All increases shall take effect on July 1st of each year.

	2003	2004	2005	2006	2007
PER DUE	\$48.30	\$50.70	\$53.24	\$55.90	\$56.86

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95

- AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
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PAGE TWO

EXHIBIT D

Appendix B to Chapter 4.12

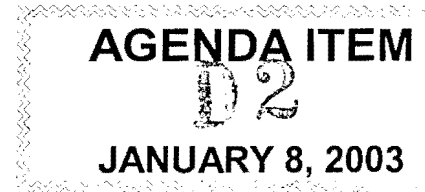
Cost of Sewer Capacity Charge – Town Division
Per Dwelling Unit Equivalent (DUE)

The sewer capacity charge will take effect 60 days after Ordinance is passed. The future increases will take effect on July 1st of the year:

	2003	2004	2005	2006	2007
DUE	\$3,048.00	\$3,139.00	\$3,233.00	\$3,329.00	\$3,428.00

Note: Volunteers (properties within the Nipomo Sewer Project Assessment District) with existing structures or new construction replacing structures existing prior to 1985 and having no greater DUE will not have a sewer capacity charge. All other construction on volunteer property as zoned in 1985 shall have the option to pay the District sewer capacity charge, as defined above or \$2,100.00 per DUE.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES *D*
DATE: JANUARY 8, 2003



MUNICIPAL FINANCIAL CONSULTANT SERVICES

ITEM

Agreement with Perry Louck, CPA, for financial services for issuance of indebtedness

BACKGROUND

The Nipomo Community Services District is a special District operating under the enterprise concept, where fees are charged for services and has a property tax rate established when it was first formed. The State of California has acquired a specific amount of the District's property tax revenues through the ERAF process. With the State's budget being in a deficit, it is possible that the District's property tax revenues will be up for consideration, with respect to balancing the State budget. If the property tax is encumbered by indebtedness, then those revenue sources could not be acquired by the State or others. With this in mind, the District contacted Perry Louck, CPA, to review the possibility of acquiring indebtedness, secured by property taxes to acquire funds for necessary infrastructure improvements.

Mr. Louck has experience processing indebtedness through his Water District and has a network of financial experts that would benefit the District. Also, the fees for service for Perry Louck, bond counsel and bond legal counsel could be included in the debt service.

RECOMMENDATION

Staff recommends that your Honorable Board acquire the services of Perry Louck, CPA for financial consultant services.

RESOLUTION 2003-LOUCK 2

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING PERRY R. LOUCK, CPA TO PROVIDE
MUNICIPAL FINANCIAL CONSULTING SERVICES**

WHEREAS, the District requested a proposal from the consulting Perry R. Louck, CPA to provide municipal financial consultant services, and

WHEREAS, staff and the Board of Directors have reviewed the proposal from Perry R. Louck, CPA to perform financial consulting services.

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

1. That Perry R. Louck, CPA is approved to provide the District's Municipal Financial Consulting Services in the amount of \$15,900, and
2. That the President of the Board is instructed to execute the contract on behalf of the District.

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

AYES: Directors

ABSENT:

ABSTAIN:

the foregoing Resolution is hereby adopted this 8th day of January, 2003.

Michael Winn, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

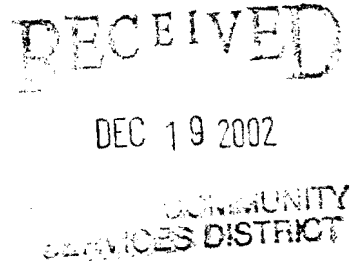
Jon S. Seitz
District Legal Counsel

RES/2002-Louck2

PERRY R. LOUCK, C.P.A.

December 16, 2002

Doug Jones – General Manager
148 South Wilson Street
P.O. Box 326
Nipomo, California 93444-0326



Dear Doug :

Pursuant to your request I am pleased to submit this letter Agreement to the Nipomo Community Services District (the "District") for municipal financial consultant services to be performed in conjunction with the series "A" Bonds, as referred to herein, which may include any form of indebtedness included but not limited to Assessment district bonds or special assessment bonds or any other form of indebtedness.

I offer to assist you in a financial advisory capacity by utilizing and making available to you research and statistical and consultant information to such an extent as may be necessary and helpful. Services for this project can be divided into three phases. The first phase would be concerned with the financial planning and all other necessary analyses, public meetings, workshops, and conferences and hearings. The second phase would be concerned with the marketing of the bonds.

SERVICES

Upon request of District staff, I agree to provide the financial consultant services in connection with the above described project.

PHASE I :

I. Preliminary survey

I will confer with staff, Bond Counsel and Consulting engineers for the purpose of making a preliminary survey of the project and to assist in the formulation of a coordinated plan to finance each project.

II. Attendance at Meetings and Conferences

I will attend any meetings concerning the Project when deemed necessary and, in addition, be available to attend meetings and conferences to explain the effects of the proposed financing.

III. Consultation and Advice

I will be available for consultation and advice.

IV. Work Sessions and Seminars

I will be available to conduct or participate in work sessions and seminars, which may be held to discuss the Project and methods of financing.

28850 VALLEJO AVE. • TEMECULA, CALIFORNIA • 92592
PHONE: (909) 296-6927 • FAX: (909) 296-6866

V. Public Hearing

I will attend any public hearings and shall participate in such hearings to the extent deemed necessary by the District.

PHASE II

Phase II services will commence upon appropriate action of the Board of Directors directing the sale of the contemplated bonds.

I. Municipal securities Market

Furnish the District with information concerning the current municipal securities markets and make recommendations as to the technical details of the financing, including maturity schedules, funds, covenants, redemption features, and other details which will, in my opinion, make the proposed financing most acceptable to the prospective purchasers and , therefore, marketable at the lowest possible interest rate.

II. Negotiated Sale

1. Selection of underwriter - Assist the district in the selection of a qualified Underwriter whose reputation, financial strength, and experience will best serve the interests of the District and affected property owners.
2. Consultation Advice .
3. Negotiated Sale of Bonds - Assist the District in negotiating the sale of the Bonds to the underwriter selected and make appropriate recommendations to the District.
4. Financial Review of Documents - Review the financial aspects of all documents relating to the marketing of the proposed Bonds including any underwriter preliminary official statement, Bonds Purchase agreement and Final Official Statement.
5. Due Diligence Meeting - If a Due diligence meeting is held, participate in such meeting and assist the District in the examination of pertinent financial data.

III. Bond Closing

I will compute or review the closing figures, including accrued interest and assist in the coordination of the events of closing.

Phase III

I will be available for consultation and advice to assist District Staff in the administration of the debt and the servicing of the bonds.

In addition to the foregoing, I will be available for ongoing consultation and advice.

FEES

For all services to be rendered under Phase I and II hereunder, the District will pay me a fee of \$15,900

Fees for additional services under phase III will be billed at my then current hourly rate.

ABANDONMENT

In the event the project is abandoned prior to completion of the financing, the District agrees to pay a fee equal to the reasonable value of services rendered from the date of this agreement to the date of abandonment. Reasonable value for services shall be determined at \$150 an hour for Financial advisory services, plus reimbursement for usual and customary out of pocket expenses.

EXPENSES

The district will reimburse me for usual and customary out of pocket expenses, including but not limited to, the cost of financial advertising and costs incurred in connection with travel related to project and public meetings.

PAYMENT

Payment for all services rendered and expenses incurred pursuant to this agreement shall be billed and paid on a monthly basis with any balance of the contract amount due at the closing of the bond sale.

DECEMBER 16, 2002

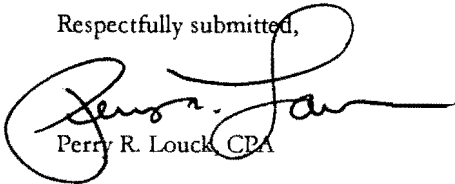
TERMS

This Agreement shall remain in full force and effect until the financing contemplated herein is completed or all projects are abandoned or completed, whichever first occurs.

It is expressly understood that this agreement does not intend to and is not under any circumstances to be construed as requiring me to perform any services which constitute the practice of law; I am contracted for in an expert financial advisory capacity only.

If the foregoing Agreement is satisfactory to you, please take the appropriate action to authorize its acceptance by signing and returning the duplicate copy hereof.

Respectfully submitted,



Perry R. Louck, CPA

ACCEPTANCE

Executed on behalf of the Nipomo Community Services District this _____ day of _____, 2002.

By : _____

Title : _____

Date : _____

TO: BOARD OF DIRECTORS
FROM: DOUG JONES *DJ*
DATE: JANUARY 8, 2003

AGENDA ITEM
11
JANUARY 8, 2003

CITY INCORPORATION

ITEM

Review the possibility of the District initiating city incorporation

BACKGROUND

At the regular board meeting held on December 18, 2002, the Board requested that the possibility of city incorporation be put on the agenda for general discussion. If your Honorable Board wishes to be the lead agency in initiating incorporation, you may direct staff to accordingly. The District would work with the existing Incorporation Committee.

Enclosed is SLO-LAFCO Section on policies of City Incorporation along with information from San Diego LAFCO on incorporation.

With new commercial development proposed for Nipomo, an early incorporation would have the possibility of capturing local revenue sources for local benefits through a new city.

RECOMMENDATION

Your Honorable Board may wish to direct staff to proceed on this item.

Board 2003/City incorporation.DOC

SAN LUIS OBISPO

LOCAL AGENCY FORMATION COMMISSION

Serving the Area of San Luis Obispo County



Policies & Procedures

Updated September 19, 2002,

**LOCAL AGENCY FORMATION COMMISSION
POLICIES - PROCEDURES - GUIDELINES**

19. A Municipal Service Review shall be prepared to update the Sphere using the Guidelines drafted by the State Office of Planning and Research and in accordance with the CKH Act.
20. The Commission shall give great weight to a proposal that is supported by a community's long-range vision for its growth and development.

II. Policies for City Incorporation

1. Incorporation will be discouraged where a municipal government already exists adjacent to the area. Existing jurisdictional boundaries of other agencies shall be recognized and evaluated.
2. When other municipalities are adjacent, the Commission will consider as preferable, in the order listed, the following actions:
 - a. Annexation to an existing municipality
 - b. Reorganization, consolidating one or more of the municipalities and the unincorporated area
 - c. Incorporation.
3. Incorporation will be given more favorable consideration if:
 - a. A community is geographically located some distance from any other municipality.
 - b. There is a demonstrated public need for additional governmental services and controls, or a need for a higher level of some or all of those services being provided.
 - c. The needed governmental services can be shown to be most quickly and economically provided by incorporation.
 - d. The area to be incorporated is compact, contiguous, possesses a community identify and includes a variety of land uses that provides for a balanced community.
 - e. The proposed incorporation must reflect and consider the general plans of the County and affected cities.

**LOCAL AGENCY FORMATION COMMISSION
POLICIES - PROCEDURES - GUIDELINES**

- f. The proposed incorporation must not conflict with the logical growth of adjacent cities as reflected in Commission approved spheres of influences.
- g. The proposed incorporation does not represent an attempt to incorporate only revenue-producing territories to preempt neighboring cities from receiving those revenues.
- h. The proposed boundaries do not create or result in areas that are difficult to serve.
- i. The proposed boundaries must be definite and certain and wherever possible should conform to lines of assessment and consider topographic, geographic and historic boundaries.
- j. The effect of incorporation on Special Districts must be considered.
- k. Within the proposal there must be a cost versus benefits justification of the proposed incorporation.
- l. Sufficient revenue to supply required municipal services is evident in the incorporation proposal.
- m. Consideration will be given to the effect of incorporation upon adjacent landowners, governmental agencies, and the County.
- n. A comprehensive fiscal analysis must be completed pursuant to CKH-56800 and the LAFCO incorporation guidelines prepared by the State Office of Planning and Research.
- o. The incorporation would result in a similar exchange of both revenue and responsibility for service delivery between the county, the proposed municipality and other involved agencies (CKH 56815).
- p. The incorporation proposal shall fully consider the State Guidelines for Incorporation. These guidelines are advisory to the Commission in the review of an incorporation proposal and should be used in preparing any incorporation proposal.

San Diego LAFCO
A good description of
the process. Some of S.D.
policies would not apply.

DC

A Citizen's Guide to the Incorporation Process

Purpose of Incorporation

Incorporation of a city is defined as the formation of a city with corporate powers. The process shifts local government responsibility for an unincorporated area under the jurisdiction of a county board of supervisors to a newly established city council. This process is accomplished under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the law governing Local Agency Formation Commissions (LAFCOs) and local government organizational changes. Reasons for incorporation efforts varies from place to place and include, but are not limited to, the following:

- To improve local public services;
- To capture increased revenues to support local services;
- To give a community local control over land use planning;
- To create a politically accountable governing body (a city council) in a limited geographic area; and
- To pursue local policy goals.

Incorporation Process

The procedure for the incorporation of an unincorporated community in the State of California is a lengthy and very complex process requiring at least a year of formal review. The purpose of the process is to ensure that any proposed incorporation is economically feasible and in the best interests of the community. An incorporation proposal must also be environmentally and logically sound from a public service standpoint. The procedures for incorporation should be followed to avoid unnecessary delays and to reduce the risk of potential litigation.

Processing an incorporation proposal can be divided into five separate stages: (1) developing the incorporation proposal; (2) initiating the incorporation proposal; (3) LAFCO staff review of the incorporation proposal; (4) LAFCO proceedings; and (5) election and the first year.

1. Developing the Incorporation Proposal

Incorporations don't just "happen"—they are created by people who devote long hours, money and hard work to the project. The impetus for an incorporation typically starts with a group of residents forming an ad hoc "committee" to explore the possibility of incorporating their community. While each community is unique and

has its own reasons for exploring incorporation, a committee of interested local residents is, almost without exception, the driving force of an incorporation. An incorporation committee defines and articulates incorporation goals on behalf of the community, raises funds, collects signatures, assembles application materials, works with LAFCO staff and consultants, testifies at hearings and negotiates changes in the proposal.

For any incorporation to succeed, it must have widespread community support since all successful incorporations must be approved by the voters. Therefore, ensuring that the residents within the area proposed for incorporation receive complete information is a crucial task during development of the incorporation proposal, and throughout the entire process. Incorporation is often controversial. Because people residing in the incorporation area as well as residents in adjoining communities may all be directly affected by an incorporation, it is recommended that the incorporation committee meet with all affected groups.

Fund raising is another crucial task in developing an incorporation proposal. A by-product of the complexity of incorporation is its expense. Incorporation proponents are responsible for the costs of an incorporation proposal that may exceed \$100,000 as evidenced by recent incorporations. Under specified conditions, incorporation proponents may request funding from the State for portions of the incorporation process. However, the funding is not certain and may not cover all costs of incorporation. In addition, the Commission will take no action on the incorporation proposal while the request for funding is pending before the State. Specific San Diego County incorporation processing fees and deposit requirements are available upon request.

2. Initiating the Incorporation Proposal

There are certain basic requirements that must be met prior to initiation. First, existing State Law requires that areas proposed for incorporation include at least 500 registered voters, that the area be entirely within the boundaries of one county, and that the incorporating territory be contiguous and without islands of unincorporated territory surrounded by the proposed city.

After meeting the basic legal requirements for incorporation, the proposal can be initiated in one of two ways. One way is through a public agency. A resolution of application can be adopted by the legislative body of an affected agency, which is defined as any city, district or county that contains territory within the proposed incorporation boundaries.

Incorporations can also be initiated by a petition signed by at least 25% of the registered voters or 25% of the number of landowners who own not less than 25% of the assessed value of the land in the incorporation area. The Registrar of Voters or County Assessor must verify the petitions and may charge a fee for verification of

each signature. The costs of verification will be charged in the same manner and by the same agencies that bear the costs for verifying signatures for an initiation petition.

If the Registrar of Voters or County Assessor finds irregularities with petition signatures, the invalid signatures will be disqualified. Thus, to allow for potential disqualifications, most incorporation proponents collect more signatures than required. The incorporation proponents are required to file a *Notice of Intention to Circulate a Petition* with the LAFCO Executive Officer prior to collecting signatures. Since State Law is very specific regarding the form and time limits for collecting signatures, it is strongly recommended that the incorporation proponents meet with San Diego LAFCO staff prior to filing the Notice and to collecting signatures.

A completed LAFCO application for incorporation must also accompany the petition or resolution initiating the incorporation proposal. The application must include a map and legal description of the boundaries of the proposed incorporation area, a feasibility study, including a fiscal analysis of the proposed incorporation, justification for the proposal, a plan for the transfer and provision of public services to a new city, special studies and other information as requested by the San Diego LAFCO Executive Officer.

3. LAFCO Staff Review of the Incorporation Proposal

In its evaluation of the merits of an incorporation proposal, the LAFCO staff completes multiple tasks. The staff reviews all the application materials submitted, conducts its own analyses, performs the environmental review, determines the property tax transfer and revenue neutrality amounts, solicits comments and produces a final report. As the Executive Officer deems appropriate, the submittal of additional information or studies, preparation of a new fiscal feasibility study or changes in the proposal may be required. This process can take as long as twelve (12) months.

Throughout the entire process, LAFCO staff works cooperatively with all interested parties to ensure that a thorough, complete and accurate proposal is developed for LAFCO consideration. When the proposed incorporation is ready for a public hearing, the San Diego Executive Officer will issue a Certificate of Filing, schedule the item for a public hearing and prepare a report with a recommendation, which will be sent to the Commissioners prior to the public hearing.

Noticing requirements for LAFCO proposals require publishing in a paper of general circulation. LAFCO is generally not required to mail a notice to every resident within a proposed incorporation boundary. Residents with an interest in an incorporation proposal should send a request to San Diego LAFCO asking that they be added to the incorporation mailing list.

The following is a list of guidelines and policies that apply to incorporation in California, as well as, specifically within San Diego County.

- San Diego LAFCO may approve incorporation if it finds that the proposal complies with the policies and standards applicable in State Law and local procedures.
- San Diego LAFCO has adopted a policy that recognizes that special efforts should be made to recognize the integrity of unincorporated communities and, when appropriate, preserve their cohesive identity. The policy includes standards to determine when it is appropriate to exclude territory from a proposed incorporation boundary.
- All subject agencies whose service responsibility or territory would be changed as a result of the incorporation proposal shall participate in revenue neutrality negotiations to mitigate negative fiscal impacts of incorporation.

4. LAFCO Commission Proceedings

LAFCO (the Commission) is the body that is empowered by the State Legislature to deliberate on an incorporation proposal. The San Diego LAFCO is comprised of eight representatives—three from cities in San Diego County, two County of San Diego supervisors, two representatives of special districts and one public member.

A public hearing will usually be scheduled within 30 days after the San Diego LAFCO Executive Officer issues a Certificate of Filing. At the public hearing, the Commission hears the report of its staff and accepts the testimony of interested parties both supporting and opposing the incorporation. The Commission may continue the hearing to a future date or close the public hearing and act on the proposal.

The Commission has the authority to approve, deny or modify and approve the incorporation proposal. It also has the ability to add terms and conditions. If the Commission approves the proposed incorporation, it will, at the same hearing, adopt a resolution of approval, determine the final boundaries, establish the governmental structure of the new city, determine the base property tax and the provisional appropriations limit, and establish mitigation measures, if needed, for the impacts of revenue neutrality. It also establishes an effective date for the incorporation and may adopt a sphere of influence for the new city. If the Commission denies the proposed incorporation, no similar application can be filed for at least one year unless the Commission waives that prohibition.

Assuming approval by the Commission, the incorporation proposal is heard by the conducting authority, which is LAFCO. The purpose of the conducting authority hearing is to count written protests. If 50% or more of registered voters in the proposed incorporation area submit written protest, the conducting authority

terminates the incorporation process. If less than 50% protest is submitted, the incorporation is scheduled for an election. If approved by voters, the incorporation becomes effective on the date determined by LAFCO.

5. Election and First Year

The incorporation proposal is placed on the ballot for voter approval at the next available election. If the incorporation is successful, the new city will be liable for payment of election costs. In the event the incorporation is rejected by the voters, the County absorbs the election costs. If incorporation proponents request an earlier election than the next general election, they will be required to reimburse the County for the costs of the special election.

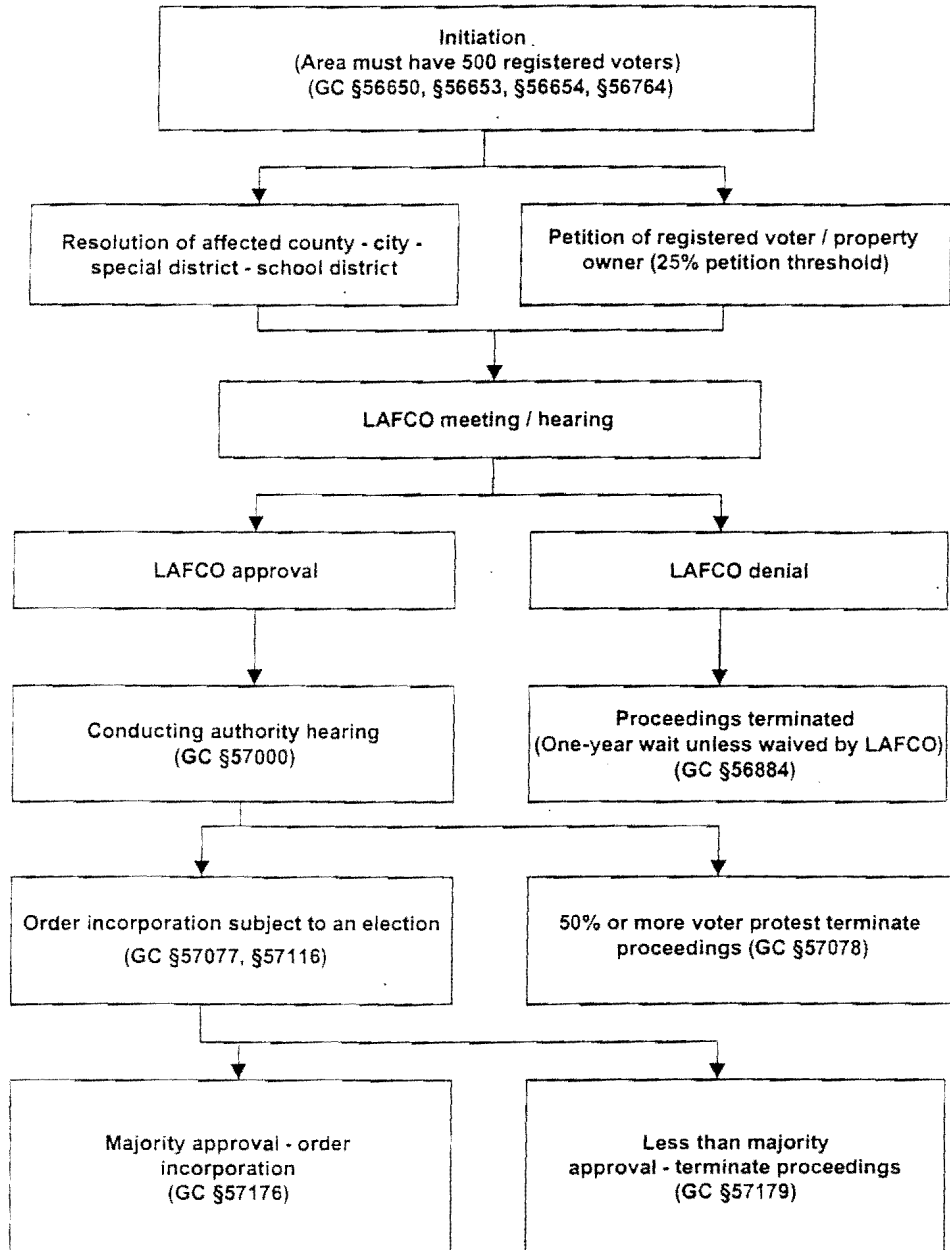
A simple majority of those voting is required to approve the incorporation. Included on the ballot, along with approval of the incorporation, are the names of those people running for the city council and an appropriations limit as required by law. The ballot may also call for the selection of the name of the new city and can include the question of whether the number of city councils members shall be 5 or 7, and whether subsequent city council elections shall be by district or at-large. By State Law, the first election is conducted at-large. Following confirmation of the proposed incorporation by the voters, the LAFCO Executive Officer, as a final action, files a Certificate of Completion.


On the effective date following approval by the voters, the five (5) people receiving the highest number of votes are sworn in as the new city council. The three (3) persons receiving the lowest number of votes serve until the next general election and the two (2) persons receiving the highest number of votes serve until the second general election. The new city council begins to organize the new city's administrative structure at their first meeting by adopting the existing ordinances of San Diego County. These ordinances remain in place for at least 120 days following incorporation, or until the new city council adopts ordinances superseding the County ordinances, whichever occurs first.

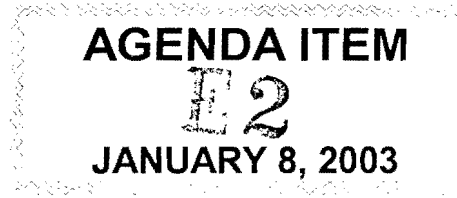
Generally a new city provides no direct services during the transition period, which is the time between the effective date and July 1 of the first fiscal year following the effective date. The County continues to provide municipal services during the transition year to provide time for the new city to "gear up" until the beginning of the next fiscal year. A new city, at its own cost, may opt to assume responsibility for services at any time during the transition year. At the end of the transition year, the new city begins to provide the services that it is authorized to provide. At that time, the responsibility for service transfers from the County to the new city.

For more detailed information on the incorporation process, call San Diego LAFCO at (619) 531-5400.

City Incorporation



TO: BOARD OF DIRECTORS
 FROM: DOUG JONES 
 DATE: JANUARY 8, 2003



BOARD OF DIRECTORS COMMITTEES

ITEM

Committee members to be appointed to established committees

BACKGROUND

The President may appoint committee members to serve on established committees.

At the last regular meeting of the calendar year, the Board selected Michael Winn for President of the Board and Judy Wirsing as Vice President for the year 2003. Section 9 of the By-Laws of the Board of Directors of the Nipomo Community Services District covers the appointment of Board committees. The President of the Board appoints the committee members.

Any changes to the Ad Hoc Committees or the Standing Committees would be appropriate to make at this time.

Section 9 of the Board of Directors By-laws is as follows:

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 shall be appointed by the President of the Board of Directors.

(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.

RECOMMENDATION

Staff will proceed with adjusting the committee assignments.

The following were the established committees for the year 2002. These committees may be reconstituted, modified or remain as-is for the year 2003.

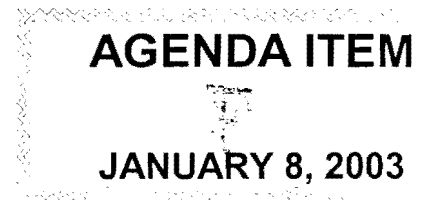
These committees require one member and an alternate.

<u>Present Committee Assignments</u>	<u>Present Member</u>	<u>Present Alternate</u>
Nipomo Community Advisory Committee (Will include NCAC Water Committee)	Mike Winn	Judy Wirsing
Water Resources Advisory Committee	Doug Jones	Bob Blair
Chamber of Commerce	Judy Wirsing	Mike Winn

These committees require two (2) members.

<u>Present Committee Assignments</u>	<u>Present Members</u>	
Finance Committee	OPEN	Cliff Trotter
Water Committee	Mike Winn	Bob Blair
High School Committee	OPEN	Bob Blair
Annexation Policy Committee	Mike Winn	Bob Blair
Personnel	OPEN	Mike Winn

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: JANUARY 8, 2003



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 December 18, 2002, Regular Board meeting
 - Minutes of December 20, 2002, Special Board meeting

Bd2002\Consent-010803.DOC

WARRANTS JANUARY 8, 2003

**AGENDA ITEM
F-1
JANUARY 8, 2003**

HAND WRITTEN CHECKS

18580 12-13-02 SLO COUNTY CLERK RECORDER \$85.00

COMPUTER GENERATED CHECKS

Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
7598	12/20/02	EMP01	EMPLOYMENT DEVELOP DEPT	385.88	.00	385.88	A21216	STATE INCOME TAX
7599	12/20/02	MID01	MIDSTATE BANK-PR TAX DEP	1539.65 400.54	.00 .00	1539.65 400.54	A21216 1A21216	FEDERAL INCOME TAX MEDICARE (FICA)
			Check Total.....:	1940.19	.00	1940.19		
7600	12/20/02	MID02	MIDSTATE BANK - DIRECT DP	12276.53	.00	12276.53	A21216	NET PAY DEDUCTION
7601	12/20/02	PER01	PERS RETIREMENT	2145.39	.00	2145.39	A21216	PERS PAYROLL REMITTANCE
7602	12/20/02	SIM01	SIMMONS, DEBRA	150.00	.00	150.00	A21216	WAGE ASSIGNMENT
7603	12/20/02	STA01	STATE STREET GLOBAL	735.00	.00	735.00	A21216	DEFERRED COMP
7604	12/20/02	BLA01	BLAIR, ROBERT L	100.00	.00	100.00	122002	SPECIAL MEETING
7605	12/20/02	TRO01	TROTTER, CLIFFORD	100.00	.00	100.00	122002	SPECIAL MEETING 12/20/002
7606	12/20/02	VIE01	VIERHEILIG, LARRY	100.00	.00	100.00	122002	SPECIAL MEETING 12/20/02
7607	12/20/02	WIN01	WINN, MICHAEL	100.00	.00	100.00	122002	SPECIAL MEETING 12/20/02
7608	12/20/02	WIR02	WIRSING, JUDY	100.00	.00	100.00	122002	SPECIAL MEETING 12/20/02
7609	01/03/03	EMP01	EMPLOYMENT DEVELOP DEPT	407.38	.00	407.38	A21231	STATE INCOME TAX
7610	01/03/03	MID01	MIDSTATE BANK-PR TAX DEP	1624.39 424.96	.00 .00	1624.39 424.96	A21231 1A21231	FEDERAL INCOME TAX MEDICARE (FICA)
			Check Total.....:	2049.35	.00	2049.35		
7611	01/03/03	MID02	MIDSTATE BANK - DIRECT DP	12930.99	.00	12930.99	A21231	NET PAY DEDUCTION
7612	01/03/03	PER01	PERS RETIREMENT	2145.39	.00	2145.39	A21231	PERS PAYROLL REMITTANCE
7613	01/03/03	SIM01	SIMMONS, DEBRA	150.00	.00	150.00	A21231	WAGE ASSIGNMENT
7614	01/03/03	STA01	STATE STREET GLOBAL	735.00	.00	735.00	A21231	DEFERRED COMP
7615	01/08/03	ADV01	ADVANTAGE ANSWERING PLUS	79.95	.00	79.95	49524	PAGING SYSTEM
7616	01/08/03	AME02	AMERICAN INDUSTRIAL SUPPL	601.19 425.56	.00 .00	601.19 425.56	113146 113211	SHOP TOOLS & PARTS SHOP TOOLS AND PARTS
			Check Total.....:	1026.75	.00	1026.75		
7617	01/08/03	BCS01	BASIC CHEMICAL SOLUTIONS	698.41 324.66	.00 .00	698.41 324.66	54501 54504	SODIUM HYPOCHLORITE SODIUM HYPOCHLORITE
			Check Total.....:	1023.07	.00	1023.07		
7618	01/08/03	BLA01	BLAIR, ROBERT L	100.00	.00	100.00	010803	REG ED MEETING 010803
7619	01/08/03	CAL09	CALIF CONSERVATION CORPS	1700.00	.00	1700.00	R22239	REMOVING DEBRIS FROM CREE
7620	01/08/03	CHA02	CHARTER COMMUNICATIONS	54.90	.00	54.90	121702	INTERNET PROVIDER
7621	01/08/03	CLA02	CLAY'S SEPTIC & JETTING	2321.20	.00	2321.20	28022	JET MANHOLES AT BLACKLAKE
7622	01/08/03	COA02	COASTAL ROLLOFF	436.79	.00	436.79	18229	CREEK DEBRIS REMOVAL
7623	01/08/03	COM01	COMPUTER NETWORK SERVICES	159.00	.00	159.00	12529	COMPUTER REPAIR WORK
7624	01/08/03	COM02	COMMUNICATION SOLUTIONS	316.81 71.88 612.36 362.50 2516.08	.00 .00 .00 .00 .00	316.81 71.88 612.36 362.50 2516.08	3098 3099 3103 3104 3108	REPAIR AT EUREKA WELL DRY METER BATTERIES STANDPIPE TRANSDUCER REPA OLYMPIC WELL REPAIR BRAKEN LIFT STATION REPAI
			Check Total.....:	3879.63	.00	3879.63		

COMPUTER GENERATED CHECKS

Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
7625	01/08/03	COR01	CORBIN WILLITS SYSTEMS	545.48	.00	545.48	A212151	ENHANCEMENT & SERVICE
7626	01/08/03	CREC1	CREEK ENVIRONMENTAL LABS	30.00	.00	30.00	J4718	BL WWTP LAB
				30.00	.00	30.00	J4753	BL WWTP LAB
				30.00	.00	30.00	J4840	BL WWTP LAB
				30.00	.00	30.00	J4862	BL WWTP LAB
				30.00	.00	30.00	J4939	BLWWTP LAB
				30.00	.00	30.00	J4963	BL WWT LAB
			Check Total.....:	180.00	.00	180.00		
7627	01/08/03	CUL02	CULLIGAN WATER CONDITION	37.30	.00	37.30	123949	DELIVERY
7628	01/08/03	DAT01	DATAMATIC INC	2857.02	.00	2857.02	CA0000869	METER READING SYSTEM MAIN
7629	01/08/03	DIG01	DIGITAL WEST NETWORKS	150.00	.00	150.00	5591	WEB SITE
7630	01/08/03	EMP01	EMPLOYMENT DEVELOP DEPT	119.00	.00	119.00	123102	SUI-QUARTER 12/31/02
7631	01/08/03	FGL01	FGL ENVIRONMENTAL	44.80	.00	44.80	212454	BL WWTP LAB
				44.80	.00	44.80	212455	NIPOMO WWTP LAG
				44.80	.00	44.80	212700	BL WWTP LAB
				44.80	.00	44.80	212701	NIPOMO WWTP LAB
			Check Total.....:	179.20	.00	179.20		
7632	01/08/03	GLM01	GLM	90.00	.00	90.00	123102	DECEMBER LANDSCAPE MAINT
				260.00	.00	260.00	123102-34	DECEMBER LANDSCAPE MAINT
			Check Total.....:	350.00	.00	350.00		
7633	31/08/03	GRO01	GROENIGER & CO	-343.20	.00	-343.20	284485C	CREDIT MEMO-RETURNED ITEM
7633	01/08/03	GRO01	GROENIGER & CO	42.02	.00	42.02	214199T	BUSHING/BOLT NUT SET
				282.50	.00	282.50	215632B	4 METER SETTERS
				279.67	.00	279.67	217586B	METER SETTERS
				253.55	.00	253.55	217588B	SETTERS
				121.68	.00	121.68	217589B	MISC SUPPLIES
				145.37	.00	145.37	219732T	MISC SUPPLIES
				331.92	.00	331.92	219735T	MISC SUPPLIES
			Check Total.....:	1113.51	.00	1113.51		
7634	01/08/03	GWA01	GWA INC	25.00	.00	25.00	010103	FIRE ALARM
7635	01/08/03	HAM01	HAMON OVERHEAD DOOR CO	160.31	.00	160.31	16019	REPAIR SHOP DOOR
7636	01/08/03	IKO01	IKON OFFICE SOLUTIONS	47.20	.00	47.20	16986126	COPIER MAINT
7637	01/08/03	KAY01	GENE KAYE	2000.00	.00	2000.00	20775	REIMBURSEMENT FOR PRESSUR
7638	01/08/03	LOU01	LOUCK, PERRY CPA	14790.00	.00	14790.00	123102	FINAL BILLING-WATER/SEWER
7639	01/08/03	M&W01	M & W PUMPS, INC.	1463.85	.00	1463.85	3706	BL WELL PUMP REPAIR
7640	01/08/03	MIL01	MILLS-KOEHLE	50.00	.00	50.00	100200	BACKFLOW DEVICE TEST
7641	01/08/03	NEX01	NEXTEL COMMUNICATIONS	159.31	.00	159.31	87314013	CELL PHONES
7642	01/08/03	NIP03	NIPOMO SHELL	689.12	.00	689.12	210	GASOLINE FOR VEHICLES
7643	01/08/03	NIP04	NIPOMO REXALL	30.12	.00	30.12	121002	FILM
7644	01/08/03	NIP06	NIPOMO AUTO PARTS	1.04	.00	1.04	222109	TERMINAL
7645	01/08/03	PAC01	PACBELL/WORLDCOM	51.90	.00	51.90	T0876030	PHONE
				81.11	.00	81.11	T0876032	PHONE
				62.93	.00	62.93	T0876033	PHONE
			Check Total.....:	195.94	.00	195.94		
7646	01/08/03	PER02	CALIF PUBLIC EMPLOYEES'	3193.29	.00	3193.29	1067-0103	HEALTH INSURANCE
7647	01/08/03	PLA01	PLATINUM PLUS FOR BUSINES	387.80	.00	387.80	112102	MISC SUPPLIES
				165.00	.00	165.00	121302	CA SPEC DIST
			Check Total.....:	552.80	.00	552.80		

COMPUTER GENERATED CHECKS

Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	-----Payment Information----- Invoice #	Description
7648	01/08/03	PRE01	PRECISION JANITORIAL	275.00	.00	275.00	109	JANITORIAL SERVICE
7649	01/08/03	PUL01	PULITZER CENTRAL COAST NP	20.00	.00	20.00	119033-03	TPR SUBSCRIPTION
7650	01/08/03	QUI01	QUILL CORPORATION	11.78	.00	11.78	7449861	PLANNER
				275.60	.00	275.60	7456445	MISC SUPPLIES
			Check Total.....:	287.38	.00	287.38		
7651	01/08/03	QUI02	QUINN ENGINE SYSTEMS	1922.83	.00	1922.83	1863	SUNDALE WELL REPAIR
7652	01/08/03	RIC01	RICHARDS, WATSON, GERSHON	23519.46	.00	23519.46	124603	WATER RIGHTS ADJUDICATION
				50.00	.00	50.00	124604	SAVE THE MESA
			Check Total.....:	23569.46	.00	<u>23569.46</u>		
7653	01/08/03	SAI01	SAIC	10671.25	.00	<u>10671.25</u>	399446	GROUND WATER LITIGATION
7654	01/08/03	SAN08	SANTA MARIA VALLEY WATER	996.36	.00	<u>996.36</u>	34186	MEDIATION COST SHARING AG
7655	01/08/03	SHI01	SHIPSEY & SEITZ, INC	9496.96	.00	9496.96	1102	LEGAL SERVICES
7656	01/08/03	SLO02	DIV OF ENVIRON HEALTH	903.50	.00	903.50	23705	BL WWTF PERMIT
7657	01/08/03	SLO03	SAN LUIS OBISPO RECORDER	3549.86	.00	3549.86	110502	ELECTION CHARGES
7658	01/08/03	STA02	STATE WORKERS' COMP FUND	1792.83	.00	1792.83	1/1/03	W/C INSURANCE DECEMBER 20
7659	01/08/03	T&G01	T & G ELECTRIC, INC.	195.00	.00	195.00	11610	REPAIR GENERATOR SET
7660	01/08/03	THE01	THE GAS COMPANY	70.03	.00	70.03	121802	OFFICE HEAT 06235160949
7661	01/08/03	TRO01	TROTTER, CLIFFORD	100.00	.00	100.00	010803	REG BD MEETING
7662	01/08/03	UND01	UNDERGROUND SERVICE ALERT	121.50	.00	121.50	22012064	UNDERGROUND NOTIFICATION
7663	01/08/03	VER01	VERIZON	29.29	.00	29.29	121902	BL PHONE
				28.88	.00	28.88	121902-2	BL PHONE
			Check Total.....:	58.17	.00	58.17		
7664	01/08/03	VIE01	VIERHEILIG, LARRY	100.00	.00	100.00	010803	REG BD MEETING
7665	01/08/03	WIL01	LARRY WILKERSON	1993.89	.00	1993.89	20760	REIMBURSEMENT FOR PRESSUR
7666	01/08/03	WIN01	WINN, MICHAEL	100.00	.00	100.00	010803	REG BD MEETING 010803
7667	01/08/03	WIR02	WIRSING, JUDY	100.00	.00	100.00	010803	REG BD MEETING
7668	01/08/03	XER01	XEROX CORPORATION	80.17	.00	80.17	92861550	COPIER MAINT

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

SPECIAL MEETING

DECEMBER 16, 2002 MONDAY 7:00 P. M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

MICHAEL WINN, **PRESIDENT pro tem**
ROBERT BLAIR, **DIRECTOR**
JUDITH WIRSING, **DIRECTOR**
CLIFFORD TROTTER, **DIRECTOR**
LARRY VIERHEILIG, **DIRECTOR**

STAFF

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

CALL TO ORDER AND FLAG SALUTE

President pro tem Michael Winn called the meeting to order at 7:00 p.m. and led the flag salute.

ROLL CALL

At Roll Call, all Board members were present.

Public Comment on Agenda Items

The public has the right to comment on any item on the Special Meeting Agenda. Comments are limited to 3 minutes or otherwise at the discretion of the Chair.

There was no public comment.

ADMINISTRATIVE ITEM

Review and consider approving Memorandum of Understanding with Woodlands Project related to well interference and supplemental water.

Jim Markman, Special Water Counsel, discussed the Memorandum of Understanding with Woodlands.

The following members of the public spoke:

Istar Holliday, 577 Sheridan Rd., Nipomo – Urged the Board to look at a few things before signing away rights. See Section 4 & 5

Mr. Markman responded to Ms. Holliday.

Hathem Dawlett, representative for the Woodlands Project – spoke in favor of the MOU

Upon motion of Director Blair and seconded by Director Winn, the Board agreed to change best to reasonable. It was asked if Woodlands has to search for supplemental water. Mr. Markman answered yes. Vote 5-0 with Director Wirsing abstaining.

President of Troxler Ventures Partners, Inc., a California corporation, Bryan P. Troxler and Michael Winn, NCS D Board President pro tem, signed the agreement.

ADJOURN

President pro tem Michael Winn adjourned the meeting at 7:45 p.m.

MINUTES SUBJECT TO BOARD APPROVAL

NIPOMO COMMUNITY SERVICES DISTRICT MINUTES

DECEMBER 18, 2002

REGULAR MEETING 9:00 A.M.
BOARD ROOM 148 S. WILSON STREET NIPOMO, CALIFORNIA

BOARD MEMBERS

MICHAEL WINN, VICE PRESIDENT
ROBERT BLAIR, DIRECTOR
JUDITH WIRSING, DIRECTOR
CLIFFORD TROTTER, DIRECTOR
LARRY VIERHEILIG, 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 9:01 a.m. and led the flag salute.

B. ROLL CALL

At Roll Call, all Board members were present.

B-1 SPECIAL PRESENTATION

Resolution commending past Director Richard Mobraaten for his service to the community

Upon motion of Director Blair and seconded by Director Vierheilig, the Board unanimously approved Resolution 2002-843. Vote 5-0

RESOLUTION NO. 2002-843
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
COMMENDING RICHARD MOBRAATEN

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 member of the public spoke:

Ed Eby, Inside District – Suggested to the Board that the theoretical concept of supplemental water for annexations need a thorough study.

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

D-1) REQUEST FOR ANNEXATION – OAKRIDGE – (NEWMAN)

Request to annex approx. 285 acres north of Sandydale Rd., west of Hwy. 101

Mr. George Newman, developer, presented an overview of his project and answered questions from the Board.

The following members of the public spoke:

Ed Eby, Inside District – opposes the Board's consideration of annexation. This project violates NCSD's Annexation Policy.

Richard Mobraaten Inside District – Would like to see large lots next to Hetrick.

Upon motion of Director Wirsing and seconded by Director Trotter, the Board agreed to table this item until a contract for supplement water is in place and that the developer is to pursue supplemental water. Vote 4-1 with Vice President Winn voting no.

D-2) REQUEST FOR VARIANCE – TRACT 2456 (KING VENTURES)

Request to construct common sewer laterals for a 41 lot development

Mr. Dave Watson, representative for King Ventures, spoke to the Board about the project.

Upon motion of Director Blair and seconded by Director Vierheilig, the Board agreed to grant a variance to install a common sewer line conditional upon a recorded document indicating the responsibilities associated with a common sewer line. Vote 5-0

MINUTES SUBJECT TO BOARD APPROVAL

NCSD MINUTES
DECEMBER 18, 2002
GE TWO

- D-3) REQUEST FOR SERVICE – APN 090-123-021 (PUHEK)
Request for water and sewer service for 6 units (3 duplexes) at 175 S. Burton Street

There was no public comment.

Upon motion of Director Blair and seconded by Director Vierheilig, the Board approved an Intent-to-Serve letter with the conditions, as outlined in the Board letter plus a single sewer connection requirement. Vote 5-0 with Director Wirsing abstaining.

- D-4) DANA-FOOTHILL WATER STORAGE FACILITY
Review and award bids to construct a one million-gallon water tank at the Dana-Foothill site

The Board reviewed the bids received for construction of a one million gallon water storage tank at the Dana-Foothill site. There was no public comment.

Upon motion of Director Trotter and seconded by Director Vierheilig, the board unanimously awarded the contract to Spiess Construction Co. Inc. in the amount of \$412,000 and authorized the President of the Board to execute the contract to construct a one million gallon water storage tank at the Dana-Foothill site. Vote 5-0.

- D-5) REPEAL OF CHAPTER 4.16 OF THE DISTRICT CODE
Second reading & adoption to repeal Ch. 4.16 of District Code- Approval letters for sewer service

The Board reviewed an ordinance to repeal Chapter 4.16 of the District Code "Approval letter for sewer service" The introduction and first reading of the Ordinance was December 4, 2002. There was no public comment.

Upon motion of Director Trotter and seconded by Director Wirsing, the Board unanimously approved the second reading and adoption of Ordinance 2002-09, repealing Chapter 4.16 of the District Code. Vote 5-0

**ORDINANCE 2002-94
AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REPEALING CHAPTER 4.16 OF THE DISTRICT CODE**

E. OTHER BUSINESS

- E-1) SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY (SDRMA) AMENDING JPA AGREEMENT
Resolution approving an amendment to JPA between SDRMA & Special Dist. Worker's Comp Authority

The Board reviewed the information regarding an amendment to the JPA between Special District Risk Management Authority (SDRMA) & Special District Worker's Compensation authority (SDWCA). There was no public comment.

Upon motion of Director Blair and seconded by Director Wirsing, the Board unanimously approved Resolution 2002-846 amending the JPA to allow the SDRMA and the SDWCA to combine the operations and authorized the Vice president of the Board to execute the document. Vote 5-0

**RESOLUTION NO. 2002-846
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING THE FORM OF AND AUTHORIZING THE
EXECUTION AND DELIVERY OF A FIFTH AMENDED
AND RESTATED JOINT POWERS AGREEMENT**

NCSD MINUTES
DECEMBER 18, 2002
PAGE THREE

- E-2) SLO COUNTY STATE WATER PROJECT CONTRACT VALUATION REPORT
Consultant – Optimal Water Inc. report on the sale/lease of state water

Director Blair asked to have this item on agenda to have people aware of the proposal to have SLO County sell a portion of the State Water allocation. Optimal Water Inc. prepared the report. The Board discussed the report. There was no public comment. The Board received the report in file. The Board directed staff to write a letter to SLO County Flood Control District.

- E-3) DISTRICT AGENDA PACKET DISTRIBUTION POLICY
Review District policy of giving the agenda packet to the press

The Board discussed the survey of the Community Services Districts in our area regarding their policies on distribution of agenda packets to the press.

The following members of the public spoke:

Homer Fox, Inside District – Does not want to purchase the agenda. Wants packet available for review.

Ed Eby, Inside District – Opposes the process of obtaining agenda packet or portions
Upon motion of Director Blair and seconded by Director Trotter, the Board agreed to reaffirm the current policy to provide the agenda packets to the press free of charge and public will pay current copy fees. Also, staff will simplify process to obtain public documents. Vote 5-0

- E-4) ANNUAL ELECTION OF THE PRESIDENT & VICE PRESIDENT OF THE BOARD OF DIRECTORS TO PRESIDE FOR THE 2003 YEAR

Vice President Winn explained the rules of nominating and voting for the positions open.

Director Trotter nominated Director Winn for President of the Board.

There were no other nominations for President.

There was no public comment.

All Board members voted for Director Winn.

Director Blair nominated Director Trotter for Vice President. Director Trotter declined the nomination.

Director Trotter nominated Director Wirsing for Vice President. There were no other nominations. There was no public comment. All Board members voted for Director Wirsing for Vice President.

President pro tem Winn asked Board members to inform him of any preferences to serve on any committees. The committees will be appointed at the January 8, 2003 meeting.

- 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.*

Director Wirsing asked about litigation fees. It was agreed that the matter would be put on the next agenda for further discussion.

- F-1) WARRANTS [RECOMMEND APPROVAL]

Upon motion of Director Vierheilig and seconded by Director Blair, the Board unanimously approved F-1 Warrants Vote 4-0 with Director Trotter momentarily absent for the vote. Director Trotter returned to seat for discussion of F-2.

NCSD MINUTES
DECEMBER 18, 2002
PAGE FOUR

F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]

Minutes of December 4, 2002, Regular Board meeting

Director Wirsing asked Director Trotter clarification of his vote on Item D-8. The Minutes correctly reflected Mr. Trotter's vote.

Minutes of December 11, 2002, Special Board meeting

Director Wirsing asked about comment from John Snyder had stated that copies of the transcripts in the Santa Clara case were available for \$47.00. Mrs. Wirsing understood that Mr. Jon Seitz would obtain copies for the District. Mr. Michael Seitz, District Deputy Legal Counsel, assured the Board that the documents would be obtained.

There was no public comment.

Upon motion of Director Vierheilg and seconded by Director Wirsing to approve Item F-2, the Board unanimously approved Minutes of Dec. 4 and 11, 2002, as amended. Vote 5-0

G. MANAGER'S REPORT

Doug Jones, District General Manager, presented the following report.

- January 2003 Board of Directors Meeting Schedule

1st meeting – January 8, 2003

2nd meeting – January 22, 2003

- Office will be closed December 23-27, 2002, December 31 half day and January 1, 2003.

H. COMMITTEE REPORTS

There were no Committee Reports.

I. DIRECTORS COMMENTS

Director Blair commented on the Woodlands Project

Director Wirsing comments about the 18,000 homes proposed

Director Vierheilg commented about a BoS member comment.

He also is concerned about keeping our facilities clean, and minimal landscaping efforts.

Director Wirsing commented about lawns shouldn't be only for the wealthy.

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. SAVE THE MESA VS. NCSD CV 020181
- C. ANTICIPATE/INITIATION OF 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§549569

ADJOURN

There will be a Special board meeting December 20, 2002, 9:00 a.m.

The regular meeting scheduled for January 1, 2003 (New Year's Day) is canceled.

The next regular Board Meeting will be held on January 8, 2003, at 9:00 a.m.

NIPOMO COMMUNITY SERVICES DISTRICT MINUTES

DECEMBER 20, 2002

SPECIAL MEETING 9:00 A.M.
BOARD ROOM 148 S. WILSON STREET NIPOMO, CALIFORNIA

BOARD MEMBERS

MICHAEL WINN, PRESIDENT pro tem
ROBERT BLAIR, DIRECTOR
JUDITH WIRSING, DIRECTOR
CLIFFORD TROTTER, DIRECTOR
LARRY VIERHEILIG, 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 pro tem Michael Winn called the meeting to order at 9:00 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) WATER AND WASTEWATER RATE STUDY UPDATE AND PROPOSED RATE INCREASE

Presentation by consultant, Perry Louck, CPA.

Introduction of Ordinance to increase water and wastewater rates and capacity charges.

Mr. Perry Louck, CPA, presented the final report on the study reviewing the District's water and sewer rates and capacity fees.

There was no public comment.

Upon motion of Director Trotter and seconded by Director Vierheilig, the Board unanimously approved to instruct staff to place notice in the newsletter, a breakout of the bills and how the litigation affects the bills. There was no public comment. Vote 5-0

Board asked for a report to the Board showing litigation costs: Monthly, Year-to-date and Total

Upon motion of Director Blair and seconded by Director Wirsing, the Board unanimously

agreed to have Ordinance 2003-95 read in title only. There was no public comment. Vote 5-0

Jon Seitz, District Legal Counsel, read Ordinance 2003-95 in title only.

Upon motion of Director Blair and seconded by Director Trotter, the Board unanimously approved the introduction and first reading of Ordinance 2003-95. Vote 5-0

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2003-95**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AMENDING
TITLE 3 AND TITLE 4 OF THE NIPOMO COMMUNITY SERVICES DISTRICT CODE TO**

- (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;**
- (2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND**
- (3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES**

MINUTES SUBJECT TO BOARD APPROVAL

D-2) WATER BOND-PROPOSITION 50 FUNDING
Resolution supporting the allocation of Proposition 50 SLO County Funds

The Board discussed the funds available to San Luis Obispo County for water associated projects. There was no public comment. Upon motion of Director Blair and seconded by Director Vierheilig, the Board approved Resolution 2002-847 and directed staff to forward it to SLO County Special District Association (Los Osos CSD). Vote 5-0 with Director Wirsing abstaining.

**RESOLUTION NO. 2002-847
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUPPORTING THE ALLOCATION OF PROPOSITION 50 SLO COUNTY FUNDS**

E. MANAGER'S REPORT


Doug Jones, District General Manager, reported the following meeting schedule and that the office would be closed every day next week.

- January 2003 Board of Directors Meeting Schedule
 - 1st meeting – January 8, 2003
 - 2nd meeting – January 22, 2003
- Office will be closed December 23-27, 2002

ADJOURN

President pro tem Michael Winn adjourned the meeting at 9:45 a.m.

*The regular meeting scheduled for January 1, 2003 (New Year's Day) is canceled.
The next regular Board Meeting will be held on January 8, 2003, at 9:00 a.m.*

TO: BOARD OF DIRECTORS
FROM: DOUG JONES 
DATE: JANUARY 8, 2003

AGENDA ITEM
G 1.
JANUARY 8, 2003

MANAGER'S REPORT

G-1) SAVE THE MESA LAWSUIT

On December 21, 2002, in a 10-page document Judge Umhofer ruled that NCSD has prevailed on all accounts. Enclosed is the Judge's decision for the Board's review.

G-2) LEGAL FEE UPDATE

Attached is an update of expenditures on the legal fees for the District.

Board 2003/MGR 1-8-03.DOC

FILED
SAN LUIS OBISPO
SUPERIOR COURT

DEC 23 2002

COURT EXECUTIVE OFFICER

BY *Patricia*
DEPUTY CLERK

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

SAVE THE MESA,

Petitioner,

vs.

NIPOMO COMMUNITY SERVICES
DISTRICT, an incorporated public
entity,

Respondent.

ERIC BENHAM, TRINCON, INC.,
LLOYD INGBER TRUST, DOES 1
through 20,

Real Parties in Interest.

Case No. CV 02-0181
DECISION ON PETITION FOR
WRIT OF MANDATE

This CEQA action concerns the annexation of two residential tracts (the Maria Vista Development) into the Nipomo Community Services District ("NCSD"). Tracts 1802 and 1856, located near the Santa Maria Speedway on the Nipomo Mesa, were annexed into NCSD by the Local Agency Formation Commission ("LAFCO"), so that NCSD could provide water and sewer service to the project. NCSD adopted a mitigated negative declaration ("MND") for a pipeline and two wells. Save the Mesa challenges NCSD's decision, arguing that NCSD should

1 have prepared an environmental impact report
2 ("EIR"). Save the Mesa also contends NCS D violated the Water Code by
3 failing to adopt an urban water management plan.

4 A. CEQA Violations

5 In reviewing NCS D's decision to adopt an MND, the Court
6 applies the "fair argument" test. (*Baldwin v. City of Los Angeles*
7 (1999) 70 Cal.App.4th 819, 841; *Gentry v. City of Murrieta* (1995) 36
8 Cal.App.4th 1359, 1399.) Under this test, the developer "must prepare
9 an EIR whenever substantial evidence in the record supports a fair
10 argument that a proposed project may have a significant effect on the
11 environment." (*Laurel Heights Improvement Assn. V. Regents of*
12 *University of California (Laurel Heights II)* (1993) 6 Cal.4th 1112,
13 1123; *Baldwin*, 70 Cal.App.4th at pp. 841-841; *Gentry*, 36 Cal.App.4th
14 at pp. 1399-1400.) A significant effect on the environment means "a
15 substantial, or potentially substantial, adverse change in the
16 environment." (*Laurel Heights II*, 6 Cal.4th at p. 1123.)

17 1. Growth-Inducing Impacts.

18 The provision of water to the Maria Vista development
19 involves two elements: the construction of a 12-inch water supply
20 pipeline, extending 2.3 miles from NCS D's current facilities to the
21 project; and the activation of two wells, Dana Wells #1 and #2, to
22 supply water to the pipeline and serve the project. (AR 2:299.) Save
23 the Mesa contends there was substantial evidence in the record to
24 support a fair argument that construction of the pipeline would have
25 growth-inducing effects.

26 The Expanded Initial Study/MND (AR 2:293.) acknowledged that
27 the construction of the pipelines would eliminate a potential
28 development constraint, i.e., the lack of an available water supply,

1 in the areas adjacent to the pipeline extension. (AR 2:315.)
2 Nonetheless, the MND states that because these areas are zoned for
3 agricultural use, any development of the areas would require approval
4 of a General Plan amendment as well as annexation into the NCSD and
5 approval by LAFCO. These actions would require separate, additional
6 environmental documentation. Based on the additional approvals
7 required for development of these areas, the MND concluded the project
8 would have a less than significant impact on growth inducement.
9 (AR 2:315-316.)

10 In response to the MND, SLO County Planner Jay Johnson
11 stated that extending the water pipeline would have a potentially
12 significant growth-inducing impact. (AR 2:538.) He noted the pipeline
13 would be extended adjacent to property in the rural lands land-use
14 category. In that category, a General Plan amendment would be
15 required to convert the area to residential development at a density
16 of greater than two residences per 20 acres. A General Plan
17 amendment, however, would not be necessary for the following uses:
18 churches, rural recreation and camping, schools, libraries and
19 museums, food and kindred products, small-scale manufacturing, and bed
20 and breakfast. He concluded that although most of these uses would
21 require a conditional land use permit and be subject to CEQA,
22 "potentially, these uses are more attractive with community water
23 being easily available." (AR 2:538-539.)

24 LAFCO staff (despite having recommended a finding of no
25 significant impact when considering annexation (AR 2:262, 273-4.)
26 noted to NCSD that construction of the pipeline would remove a
27 significant constraint on development in the surrounding areas. LAFCO
28 concluded that the growth-inducing impact should be studied prior to

1 construction of the pipeline.¹ (AR 2:529.)

2 The foregoing comments appear to show there is evidence in
3 the record to support a fair argument that the annexation and
4 construction of the pipeline may have a significant effect on the
5 environment. Nonetheless, NCSAD contends Save the Mesa cannot
6 challenge the MND's conclusions about the growth-inducing impacts of
7 the pipeline because those impacts were previously examined by LAFCO
8 when LAFCO approved the annexation of the project into the NCSAD
9 service area.

10 The record shows that LAFCO considered whether to expand
11 NCSAD's sphere of influence and annex the project to NCSAD. (AR 2:247-
12 248.) LAFCO determined that inclusion of the project in NCSAD's sphere
13 influence would cause pressure on the intervening territory to
14 develop. It concluded, however, that the annexation would not have
15 a significant impact on the environment because any future annexations
16 would require LAFCO review and would be subject to a new environmental
17 determination. (AR 2:270, 2:274; 3:599-600.) In arriving at this
18 conclusion, LAFCO considered the County Planning Department's concern
19 that the extension of the water pipeline through an intervening rural
20 area might have a growth-inducing effect. (AR 2:260.) LAFCO's
21 approval of the MND for the annexation of the Maria Vista development
22 into NCSAD was not challenged and is now final.

23 NCSAD's authority is limited to the authority to carry out
24 the necessary functions and operations of supplying sufficient water
25 to inhabitants within its boundaries. (Gov. Code §§ 61600, 61610;

27 ¹This comment by LAFCO staff members was subsequently undermined
28 when LAFCO itself adopted a negative declaration and found the growth-
inducing impact of the annexation to be less than significant.
(AR 3:599-600.)

1 *People ex rel. City of Downey v. Downey County Water District* (1962)
2 202 Cal.App.2d 786, 795.) NCS D has no authority over zoning and land
3 use issues. (Id.) Instead, authority over zoning and land use lies
4 with the County and LAFCO. (County General Plan, Gov. Code § 56000,
5 et seq.) Thus, LAFCO was the appropriate agency to consider the
6 growth-inducing impacts of the annexation of the Maria Vista project
7 into NCS D. As explained at the public hearing conducted by NCS D, once
8 the decision to annex the project into NCS D was made, NCS D's review
9 was limited to examining the environmental effects of running the
10 pipeline extension. (AR 3:792.) Because NCS D's jurisdiction is
11 limited in scope, its consideration of growth-inducing impacts was
12 limited to the impacts on land within its boundaries. The rural lands
13 over which the pipeline would cross to reach the Maria Vista
14 development were outside NCS D's service area. (AR 3.793-794.)
15 Therefore, NCS D did not have control over growth in those areas, and
16 any extension of its jurisdiction to provide water to those areas
17 would require a General Plan amendment and corresponding annexation
18 of the land into NCS D. (AR 3:799-800.)

19 In its reply, Save the Mesa cites portions of the record that it
20 claims show NCS D agreed it would have responsibility for analyzing the
21 growth-inducing impacts of the project. (AR 2:248, 2:260, 3:688,
22 3:708.) None of these citations support Save the Mesa's assertion.
23 Nowhere in the record did the attorney for NCS D say to LAFCO that NCS D
24 would be the lead agency on the growth-inducing impact issue. As
25 early as the May 2, 2001, hearing, the district's general manager
26 explained that "LAFCO would be the conducting agency in processing
27 environmental documents with respect to the annexation. The Nipomo
28 Community Services District would be the lead agency in processing the

1 CEQA requirements for the well site and water line improvements." (AR
2 1:144.) At its October 18, 2001, public hearing, LAFCO considered
3 annexation of the tracts to the district and approval of the two
4 negative declarations associated with that decision. The staff report
5 for the hearing once again distinguished the agencies reviewing the
6 project and their respective scopes of review:

7 "LAFCO is the Lead Agency for the proposed [sphere of
8 influence/sphere of service] revision and annexations
9 projects. As Lead Agency, LAFCO is responsible for the
10 preparation of the attached Negative Declarations that
11 address any impacts associated with the Sphere of Service
12 revision and annexation.... The County previously issued
13 a Negative Declaration for the Tract Maps and Development
14 Plans approved for this site. The NCSO [the District] will
15 prepare subsequent environmental determination for any line
16 extension and well acquisitions to serve the site."
17 (AR 2:248.)

18 Petitioner cites *City of Antioch v. City Council* (1986) 187
19 Cal.App.d. 132 for various propositions; however, respondents properly
20 cite it for its fundamental affirmation:

21 "The requirement of early preparation of an EIR
22 is
23 designed to avoid the type of piecemeal review in which
24 'environmental considerations...become submerged by
25 chopping a large project into many little ones - each
26 with a minimal potential impact on the environment - which
27 cumulatively may have disastrous consequences'."
28 (*Bouzung v. LAFCO* (1975) 13 Cal.d. 263, 283-4; *Carmel-by-Sea v. Board of Supervisors* (1986) 183 Cal.App.d. 229, 244.)

The essential reason that the Court rejected the negative
declaration of the City of Pittsburg was that it did not take into
consideration the cumulative impact of building a boulevard for future
development. Clearly, the first agency needs to look at the whole
picture. Here it did.

NCSO demonstrates that the scope of its review of the
growth-inducing impacts of the pipelines was constrained by its
limited authority to address issues related to the supply of water and

1 by its jurisdictional boundaries. Because it has no authority or
 2 control over the growth of the property to be traversed by the
 3 pipeline, from its limited perspective, the growth-inducing impacts
 4 of the pipeline construction were less than significant. Therefore,
 5 Save the Mesa is not entitled to a writ on this ground.

6 2. Effect of Well Extraction on Groundwater Overdraft

7 Save the Mesa contends the plan to activate the Dana Wells
 8 will have a significant impact on the environment because the use of
 9 the wells will cause a further overdraft of the Santa Maria
 10 groundwater basin.

11 The Expanded Initial Study/MND for Maria Vista stated that
 12 the activation of the Dana Wells represented an additional source of
 13 groundwater withdrawal from the Nipomo Mesa sub-basin of the Santa
 14 Maria groundwater basin. (AR 2:319.) The MND acknowledged that
 15 reports prepared by the California Department of Water Resources and
 16 other consultants varied in their conclusions on the status of the
 17 Santa Maria groundwater basin. The County's Annual Resource Summary
 18 (2000) identified the future outflow of the Nipomo Mesa subareas to
 19 exceed inflow by 2,000 acre feet per year by the year 2020. The
 20 County's report also voiced concern about pumping depressions created
 21 by larger water purveyors. The MND concluded that the activation of
 22 the Dana Wells represented a less than significant impact on the
 23 existing groundwater supplies. NCS D properly considered the
 24 developers' vested entitlement as part of the physical environment
 25 for its CEQA review. (*Benton v. Board of Supervisors* (1991) 226
 26 Cal.App.3d. 1467.) The MND itself, however, does not cite to factual
 27 data or analysis that supports this conclusion. In his comments at
 28 the NCS D hearing, the district's engineer, Jim Garing, explained the

1 basis for the MND's conclusion. He explained that the wells had been
2 tested and it was determined that one would be brought on-line at
3 140 gallons per minute, and the other at 170 gallons per minute. He
4 stated that the wells were relatively small producers compared to
5 wells the district would normally use for a supply well, with 1,200
6 gallons per minute as the optimum production. He stated that the Dana
7 Wells were not located in the Mesa groundwater depression. Because
8 they were relatively small producers, he concluded that the activation
9 would not have a significant impact on groundwater resources.

10 (AR 3:796-797; see also test results 1:68.)

11 The MND also noted that activation of the wells was intended
12 to offset consumption associated with the Maria Vista development, and
13 thus represented a less than significant impact on groundwater that
14 was otherwise available for public use. (AR 2:320.) Mr. Garing
15 concurred in that conclusion. (AR 3:798.)

16 The relatively small production projected for the Dana Wells
17 supports the MND's conclusion that the activation of the wells would
18 not have a significant impact on the groundwater supply. There is no
19 evidence in the record, other than general concerns voiced by various
20 commentators (see AR 2:529, 2:539), that the wells would have a
21 significant impact on the groundwater supply. Accordingly, the writ
22 should be denied on this ground.

23 3. Inconsistency with the General Plan

24 Save the Mesa contends the pipeline construction will have
25 a significant impact on the environment because the project is
26 inconsistent with the County General Plan, which discourages
27 development outside the urban reserve line. For the reasons discussed
28 above, land use issues such as this are outside the scope of NCSD's

1 authority to consider and approve. Therefore, this is not an
2 appropriate basis for challenging NCSD's approval of the MND.

3 B. Water Code Violation

4 Save the Mesa contends NCSD violated the Water Code by
5 failing to adopt an urban water management plan, as required by Water
6 Code section 10620.

7 Section 10620's requirement applies to an "urban water
8 supplier," which is defined as a supplier providing water for
9 municipal purposes either directly or indirectly to more than 3,000
10 customers. (Water Code § 10617.) NCSD contends it does not supply
11 more than 3,000 customers, because it operates two separate water
12 systems: the Nipomo Main Water System, which had 2,740 accounts in
13 2000; and the Black Lake Water System, which had 560 accounts. (Water
14 Code AR 1:239, 2:338.) The Black Lake Water System was annexed to
15 NCSD on the condition the existing water supply at Black Lake would
16 be limited to serve the Black Lake development. (Water Code AR 1:23,
17 1:149.) The Black Lake Water System has its own pumping, storage and
18 distribution system, and is budgeted and operated separately from the
19 main system. (Water Code AR 1:239.)


20 NCSD explains that it has consistently addressed the two
21 systems separately, and does not combine the systems when considering
22 whether it is an urban water supplier. There is nothing in the
23 statute to indicate that the separate consideration of the two water
24 systems is unlawful. Upon inquiry by the Department of Water
25 Resources ("DWR"), NCSD explained the basis for its separate
26 consideration of the two systems. (Water Code AR 1:239, 2:540.) DWR
27 did not initiate a further inquiry, indicating that it accepted NCSD's
28 separate analysis of the two systems.

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The record shows that NCSD is not an urban water supplier subject to the requirements of Water Code section 10620. Accordingly, Save the Mesa fails to show NCSD violated the Water Code.

The petitioner for writ of mandate is denied.

Dated: December 23, 2002.


DONALD G. UMHOFFER
Judge of the Superior Court

NIPOMO COMMUNITY SERVICES DISTRICT
 LEGAL FEES/EXPERTS-GROUNDWATER LITIGATION

	LEGAL	COST ADVANCED	TOTAL LEGAL FEES
June 30, 1999	\$44,127.50	\$1,329.57	\$45,457.07
June 30, 2000	\$151,820.00	\$17,978.00	\$169,798.00
June 30, 2001	\$185,785.53	\$27,735.85	\$213,521.38
June 30, 2002	\$151,219.00	\$9,371.03	\$160,590.03
June 30, 2003*	\$111,729.00	\$12,544.81	\$124,273.81
	<u>\$644,681.03</u>	<u>\$68,959.26</u>	<u>\$713,640.29</u>

	ENGINEERING DENDY	SAIC (BEEBY)	TOTAL ENGINEERING
	\$0.00	\$2,788.75	\$2,788.75
	\$17,541.26	\$105,374.64	\$122,915.90
	\$10,160.81	\$60,192.76	\$70,353.57
	\$24,355.54	\$187,990.78	\$212,346.32
	\$1,950.00	\$34,369.57	\$36,319.57
	<u>\$54,007.61</u>	<u>\$390,716.50</u>	<u>\$444,724.11</u>

	GRAND TOTAL	TOTAL BUDGET
	\$48,245.82	\$10,000.00
	\$292,713.90	\$200,000.00
	\$283,874.95	\$220,000.00
	\$372,936.35	\$300,000.00
	\$160,593.38	\$300,000.00
	<u>\$1,158,364.40</u>	<u>\$1,030,000.00</u>

*thru 12/5/02

**NIPOMO COMMUNITY SERVICES DISTRICT
PROFESSIONAL SERVICES FOR
WOODLANDS PROJECT**

INVOICE DATE	SHIPSEY & SEITZ	RICHARDS, WATSON & GERSHON	SAIC	GARING, TAYLOR	DENDY	TOTAL
9/16/02	455.00	0.00	0.00	0.00	0.00	455.00
9/30/02	0.00	0.00	0.00	2,009.00	0.00	2,009.00
10/15/02	6,877.00	0.00	0.00	0.00	0.00	6,877.00
10/31/02	0.00	0.00	0.00	3,617.71	0.00	3,617.71
11/15/02	5,874.27	7,040.00	0.00	0.00	0.00	12,914.27
12/5/02	0.00	1,600.00	0.00	0.00	0.00	1,600.00
12/7/02	0.00	0.00	0.00	0.00	1,050.00	1,050.00
11/30/02	0.00	0.00	0.00	2,168.97	0.00	2,168.97
12/6/02	0.00	0.00	7,882.50	0.00	0.00	7,882.50
TOTAL	13,206.27	8,640.00	7,882.50	7,795.68	1,050.00	38,574.45

SAVE THE MESA
VS
NIPOMO COMMUNITY SERVICES DISTRICT
CASE NO. 020181
LITIGATION COSTS

<u>Invoice Date</u>	<u>SHIPSEY & SEITZ</u>	<u>RICHARDS, WATSON & GERSHON</u>	<u>TOTAL</u>
3/15/02	918.00	0.00	918.00
4/15/02	2,153.50	0.00	2,153.50
5/14/02	0.00	8,551.70	8,551.70
6/13/02	0.00	9,521.89	9,521.89
5/15/02	1,386.34	0.00	1,386.34
6/15/02	1,535.22	0.00	1,535.22
7/18/02	0.00	1,781.74	1,781.74
7/15/02	246.49	0.00	246.49
8/15/02	0.00	5,938.05	5,938.05
8/15/02	773.50	0.00	773.50
9/17/02	0.00	24,434.02	24,434.02
9/16/02	890.50	0.00	890.50
10/9/02	0.00	10,137.87	10,137.87
10/15/02	3,573.00	0.00	3,573.00
11/15/02	0.00	8,057.90	8,057.90
11/15/02	102.29	0.00	102.29
12/5/02	0.00	50.00	50.00
	11,578.84	68,473.17	80,052.01

TRINCON DEPOSIT	15,000.00
SHIPSEY & SEITZ (50%)	(5,789.42)
RICHARDS WATSON & GERSHON (50%)	(34,236.59)
TRINCON OWES DISTRICT AS OF 12/05	(25,026.01)