

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BBB*
DATE: APRIL 6, 2007

AGENDA ITEM
D-3
APRIL 11, 2007

REQUEST THAT STATE LEGISLATURE AMEND SB343

ITEM

Request that state legislature amend SB343 to clarify requirements related to submittal of late information to the District Board [ADOPT RECOMMENDATION].

BACKGROUND

Attached is the current version of SB343, a bill introduced by Senator Negrete McLeod to revise the provisions of the Brown Act regarding disclosure of information to the public. As drafted, SB343 would prohibit action by your Honorable Board unless all information provided to the Board "unless all writings that relate to that item are included in the agenda packet ... are made available to the public no later than the date the agency posts the agenda that includes that item." Although NCSD already publishes the full text of each Board packet on its website at the same time that the agenda is published, staff frequently presents late breaking information to the Board after publication of the packet (with copies provided to the public at the Board Meeting). Staff is concerned that SB343 would prohibit the presentation of late breaking information, which could result in delays in decisions or decisions being made with only partial information.

RECOMMENDATION

Staff recommends that your Honorable Board take an "Oppose, unless amended" position on SB343 and encourage the author to amend the bill to allow for late breaking information and presentations. Staff further requests authority to share this position with Senator Maldonado, Assembly Member Blakeslee, and CSDA.

ATTACHMENT

- SB343

CURRENT BILL STATUS

MEASURE : S.B. No. 343
AUTHOR(S) : Negrete McLeod.
TOPIC : Local agencies: open meetings: documents.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 03/27/2007

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 03/27/2007
LAST HIST. ACTION : From committee with author's amendments. Read second
time. Amended. Re-referred to committee.
COMM. LOCATION : SEN LOCAL GOVERNMENT
COMM. ACTION DATE : 03/27/2007
COMM. ACTION : Author's amendments.
HEARING DATE : 04/18/2007

TITLE : An act to amend Section 54954.2 of the Government Code,
relating to local agencies.

BILL NUMBER: SB 343 AMENDED
BILL TEXT

AMENDED IN SENATE MARCH 27, 2007

INTRODUCED BY Senator Negrete McLeod

FEBRUARY 20, 2007

An act to amend Section 54954.2 of the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

SB 343, as amended, Negrete McLeod. Local agencies: open meetings: ~~housing~~ documents.

The Ralph M. Brown Act requires that any meeting of a legislative body of a local agency be open and public and all persons be permitted to attend. The act requires the body to post an agenda at least 72 hours before a regular meeting, requires that agendas and all writings distributed to a body be made available to the public, and prohibits action or discussion on any item not appearing on the posted agenda, with specified exceptions.

~~The Housing Accountability Act requires that a local agency not disapprove a housing development project for very low, low-, or moderate-income households or condition its approval in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.~~

This bill would provide, notwithstanding any other provision of law, that no action or discussion shall be undertaken on any ~~housing development project for which findings are required by the Housing Accountability Act, unless any analysis related to those findings that is prepared by a local agency or its employees or agents be made available to the public no later than the date the agency posts the agenda that includes that housing project as an item of business.~~ agenda item unless all writings that relate to that item that are included in the agenda packet prepared by the local agency or its employees or agents are made available to the public no later than the date the agency posts the agenda that includes that item.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in

appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) Notwithstanding any other provision of law, no action or discussion shall be undertaken on any ~~housing development project for which findings are required by Section 65589.5, unless any analysis related to those findings that is prepared by a local agency or its employees or agents is made available to the public no later than the date the agency posts the agenda that includes that housing project as an item of business.~~ agenda item unless all writings, as defined in subdivision (g) of Section 6252, that relate to that item and are included in the agenda packet prepared by the local agency or its employees or agents are made available to the public no later than the date the agency posts the agenda that includes that item.

(d) This section is necessary to implement and is reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BBB*
DATE: APRIL 6, 2007



INITIATING PROCEEDINGS FOR ANNUAL LEVY OF ASSESSMENTS
FOR THE STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1

ITEM

Resolution initiating proceedings for annual levy of Street Landscape Maintenance District No. 1

BACKGROUND

In 2003, the Board of Directors formed Street Landscape Maintenance District No. 1 to provide the street landscape maintenance for Tract 2409 (Sculpture Homes located on Vista Verde and Ida Street). The Street Landscape Maintenance District was formed under Government Code Section 61601.20 and the Landscaping and Lighting Act of 1972.

Annually, NCSD must follow the procedures outlined in the Government Code and Prop. 218 to levy the assessment on each of the 28 property owners. In order to proceed, the attached Resolution should be adopted to initiate the proceedings and appoint Jim Garing, a registered engineer, as the assessment engineer.

RECOMMENDATION

Staff recommends adoption of Resolution 2007-lmd initiation

ATTACHMENT

Resolution 2007-LMD Initiation

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2007-lmd initiation**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT INITIATING PROCEEDINGS FOR ANNUAL
LEVY OF ASSESSMENTS FOR THE STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR
FISCAL YEAR 2007-2008 PURSUANT TO THE PROVISIONS OF PART 2 OF
DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE**

WHEREAS, the Nipomo Community Services District Board of Directors ("NCSD") has, by previous Petition and Resolution, formed the Nipomo Community Services District Street Landscape Maintenance District No. 1 (hereinafter referred to as "Street Landscape Maintenance District No. 1") pursuant to the provisions of Government Code §61601.20 and the Landscaping and Lighting Act of 1772 (hereinafter referred to as the "Act") that provides for the levy and collection of assessments by the County of San Luis Obispo for the Nipomo Community Services District to pay for the installation, planting and maintenance of landscaping within public streets, right of ways or easements within the Nipomo Community Services District; and

WHEREAS, Street Landscape Maintenance District No. 1 and the associated assessments are in compliance with the provisions of California Constitution Article XIID; and

WHEREAS, the NCSD has appointed Jim Garing, a registered engineer, as assessment engineer for the purpose of assisting with the Annual Levy of the Street Landscape Maintenance District No. 1 and to prepare and file a report in accordance with the Act.

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED by the Board of Directors of the Nipomo Community Services District for the Nipomo Street Landscape Maintenance District No. 1, as follows:

SECTION 1: The NCSD hereby initiates proceedings for annual levy of assessments for Street Landscape Maintenance District No. 1 for Fiscal Year 2007-2008 pursuant to the provisions of the Act.

SECTION 2: The improvements within Street Landscape Maintenance District No. 1 include: trees, shrubs, grass, and other ornamental vegetation, and appurtenant facilities and including irrigation system within the Street Landscape Maintenance District No. 1. The Board of Directors does not anticipate new improvements or substantial changes in existing improvements.

SECTION 3: Engineer's Annual Levy Report: The NCSD Board of Directors hereby orders Jim Garing, a registered engineer, to prepare the Engineer's Annual Levy Report concerning the levy of assessments for Street Landscape Maintenance District No. 1 in accordance with *Chapter 3, Section 22622* of the Act.

PASSED AND ADOPTED by the Board of Directors of the Nipomo Community Services District this 11th day of April, 2007, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael Winn, President
Board of Directors
Nipomo Community Services District

ATTEST:

APPROVED:

Donna K. Johnson, Secretary
Nipomo Community Services District
Board of Directors

Jon S. Seitz, District Legal Counsel
Nipomo Community Services District

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BBB*
DATE: April 6, 2007

AGENDA ITEM
D-5
APRIL 11, 2007

ACCEPT TRACT 2439 WATER IMPROVEMENTS

ITEM

Acceptance of Tract 2439 water improvements for 5 lot residential subdivision on Glenhaven Place [RECOMMEND APPROVAL].

BACKGROUND

Upon completion of a developer's project, the District accepts improvements of the project after all requirements have been met. The developer (Mark Alonzo) for Tract 2439, a 5 lot residential subdivision located on Glenhaven Place, has installed water improvements and has met the District's conditions:

- Installed the improvements
- Paid associated fees
- Provided the necessary paperwork, including the Offer of Dedication and the Engineer's Certification

RECOMMENDATION

Staff recommends that your Honorable Board approve Resolution 2007-Accept Tract 2439, accepting the water improvements for Tract 2439.

ATTACHMENT

Resolution 2007-Accept Tract 2439

T\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2005\ACCEPT TR2439.DOC

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2007- Accept Tr 2439**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER IMPROVEMENTS
FOR THE FOR TRACT 2439 (ALONZO)**

WHEREAS, the District approved the construction plans on May 19, 2006, for the water improvements to be constructed; and

WHEREAS, the water improvements have been constructed and said improvements are complete and certified by the engineer; and

WHEREAS, on February 16, 2007, the Owner offered the water improvements to the Nipomo Community Services District; and

WHEREAS, this District has accepted such offer without obligation except as required by law, and

WHEREAS, all water fees for service, required in conformance with District ordinances, have been paid in full for Tract 2439 (Alonzo).

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AS FOLLOWS:

That the water improvements to serve Tract 2439 in Nipomo are accepted by this District.

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

AYES:
NOES:
ABSENT:
ABSTAIN:

the foregoing resolution is hereby adopted this 11th day of April, 2007.

Michael Winn, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
General Counsel

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: April 6, 2007

**AGENDA ITEM
D-6
APRIL 11, 2007**

ACCEPTANCE OF WATER AND SEWER IMPROVEMENTS
CO 02-0246 (681 WEST TEFFT)

ITEM

Acceptance of water and sewer improvements for APN 092-130-084 (CO 02-0246) for commercial complex at the back of 681 West Tefft Street) [RECOMMEND APPROVAL].

BACKGROUND

Upon completion of a developer's project, the District accepts improvements of the project after all requirements have been met. The developer (David Diaz) for APN 092-130-084, a commercial complex located at the back of 681 West Tefft Street has installed water and sewer improvements and has met the District's conditions:

- Installed the improvements
- Paid associated fees
- Provided the necessary paperwork, including the Offer of Dedication and the Engineer's Certification

RECOMMENDATION

Staff recommends that your Honorable Board approve Resolution 2007-Accept CO 02-0246, accepting the water and sewer improvements for CO 02-0246.

ATTACHMENT

Resolution 2007-Accept CO 02-0246

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2005\ACCEPT CO 02-0246.DOC

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2007- Accept CO 02-0246**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER AND SEWER IMPROVEMENTS
FOR THE FOR CO 02-0246 (DIAZ)**

WHEREAS, the District approved the construction plans on November 18, 2002, for the water and sewer improvements to be constructed; and

WHEREAS, the water and sewer improvements have been constructed and said improvements are complete and certified by the engineer; and

WHEREAS, on March 25, 2007, the Owner offered the water and sewer improvements to the Nipomo Community Services District; and

WHEREAS, this District has accepted such offer without obligation except as required by law, and

WHEREAS, all water and sewer fees for service, required in conformance with District ordinances, have been paid in full for CO 02-0246 (Diaz).

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AS FOLLOWS:

That the water and sewer improvements to serve CO 02-0246 in Nipomo are accepted by this District.

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

AYES:
NOES:
ABSENT:
ABSTAIN:

the foregoing resolution is hereby adopted this 11th day of April, 2007.

Michael Winn, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
General Counsel

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BSB*
DATE: April 6, 2007

**AGENDA ITEM
D-7
APRIL 11, 2007**

ACCEPTANCE OF WATER AND SEWER IMPROVEMENTS
TRACT 2619 (ALLSHOUSE)

ITEM

Acceptance of water and sewer improvements for Tract 2619 on Avenida De Amigos.

BACKGROUND

Upon completion of a developer's project, the District accepts improvements of the project after all requirements have been met. The developer (Mike Allshouse) for Tract 2619, a multi-family complex located at 1 Avenida De Amigos has installed water and sewer improvements and has met the District's conditions:

- Installed the improvements
- Paid associated fees
- Provided the necessary paperwork, including the Offer of Dedication and the Engineer's Certification

The Board should note that the developer previously installed a waterline and dedicated an easement to satisfy NCSD's looping requirement.

RECOMMENDATION

Staff recommends that your Honorable Board approve Resolution 2007-Accept Tr 2619, accepting the water and sewer improvements for Tract 2619.

ATTACHMENT

Resolution 2007-Accept Tr 2619

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2005\ACCEPT TR 2619.DOC

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2007- Accept Tr 2619**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER AND SEWER IMPROVEMENTS
FOR THE FOR TRACT 2619 (ALLSHOUSE)**

WHEREAS, the District approved the construction plans on June 30, 2005, for the water and sewer improvements to be constructed; and

WHEREAS, the water and sewer improvements have been constructed and said improvements are complete and certified by the engineer; and

WHEREAS, on March 19, 2007, the Owner offered the water and sewer improvements to the Nipomo Community Services District; and

WHEREAS, this District has accepted such offer without obligation except as required by law, and

WHEREAS, all water and sewer fees for service, required in conformance with District ordinances, have been paid in full for Tract 2619 (Allshouse).

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AS FOLLOWS:

That the water and sewer improvements to serve Tract 2619 in Nipomo are accepted by this District.

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

AYES:
NOES:
ABSENT:
ABSTAIN:

the foregoing resolution is hereby adopted this 11th day of April, 2007.

Michael Winn, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
General Counsel