

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: JANUARY 15, 2008

AGENDA ITEM
E-2
JAN. 23, 2008

TOWN SEWER CAPACITY CHARGE INCREASE

ITEM

Conduct public hearing and consider adoption of resolution increasing Town Sewer Capacity Charges [ADOPT RESOLUTION].

BACKGROUND

Your Honorable Board retained the Reed Group in April 2007 to develop a Financial Plan for the Town Sewer System, reviewed a draft plan in July and accepted a Final Plan in September (previously distributed and available for review at the NCSD Office). On September 26, 2007, your Honorable Board set this hearing and directed staff to provide notice of this hearing. Staff published notice of this hearing twice in the newspaper in January. Bob Reed from the Reed Group is scheduled to present the Financial Plan at this meeting.

Attached is a draft resolution prepared by District Legal Counsel that would enact the Capacity Charges prescribed by the Financial Plan sixty days following adoption. District Legal Counsel is scheduled to present this resolution at this meeting.

RECOMMENDATION

Staff recommends that your Honorable Board open the public hearing, receive community feedback, and close the hearing. Following closure of the hearing, staff recommends that the Board adopt the Resolution and direct staff to implement the Capacity Charges.

ATTACHMENTS

- Notice
- Resolution

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2008\TOWN SEWER CAPACITY CHARGE.DOC

**NOTICE OF PUBLIC HEARING
 NIPOMO COMMUNITY SERVICES DISTRICT
 ADOPTING OF NEW TOWN DIVISION SEWER CAPACITY CHARGES
 JANUARY 23, 2008 AT 9:00 A.M. AT THE
 NIPOMO COMMUNITY SERVICES DISTRICT MEETING ROOM**

On January 23, 2008, at 9:00 a.m. at 148 South Wilson, Nipomo, California, the Nipomo Community Services District ("District") Board of Directors will hold a public hearing to consider the approval of a proposed Resolution that would increase Town Division sewer capacity charges by adopting a new Appendix "B" to Chapter 4.12 of the District Code. The capacity charges would apply to new sewer connections to the Town Division wastewater facilities.

At the Hearing, any person interested, including all persons receiving District wastewater service or owning property within the District's Town Division Sewer Service Area, may appear and be heard on the matters set forth in this Notice.

The District retained Robert Reed, of the Reed Group, Inc., to perform an analysis of the District's existing sewer user rates and capacity charges for District sewer customers and future development within the Town Division. The Reed Group Analysis is found in a report titled "Town Sewer System Financial Plan, User Rates and Capacity Charges" dated August 24, 2007 (herein the "Study"). 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 capacity charge structure and the relationship (nexus) between rates and charges to operate and maintain facilities and charges for new or expanded sewer facilities, within the Town Division, which benefit persons or property being charged. The proposed capacity charges reflects future development's proportional share of estimated costs for the planned wastewater treatment improvements/expansion to the District's Southland Wastewater Treatment Facility as well as the buy in to the sewer collection system. The Study was received and filed on September 26, 2007, and is available for public inspection at the District office located at the above address. The Study may also be viewed at www.ncsd.ca.gov.

The proposed Appendix "B" to Chapter 4.12 of the District Code that establishes the increased capacity charges states as follows:

**APPENDIX "B" TO CHAPTER 4.12
 TOWN DIVISION
 SEWER CAPACITY CHARGE BASED ON WATER METER SIZE**

METER SIZE	Effective date July 1, 2008
1 Inch or less*	\$6,927.00
1 ½ Inch*	\$20,781.00
2 Inch*	\$33,250.00
3 Inch*	\$62,343.00
4 Inch*	\$103,905.00
6 Inch*	\$207,810.00

***Annual Adjustment.** Commencing July 1, 2009, and each fiscal year thereafter, the capacity charge shall be increased to reflect the increase in the costs of the construction of District facilities. The determination of whether there has been an increase in costs and the amount of the increase in costs shall be determined by the percentage increase in the 20-Cities Construction Cost Index published by the Engineering News Record using the July, 2007, value of seven thousand nine hundred fifty-nine (7,959) as the basis and the Index value for May of each year to calculate the increase.

RESOLUTION NO. 2008-CAPACITY CHARGES (Town Division Only)

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING APPENDIX B TO CHAPTER 4.12 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH NEW TOWN DIVISION SEWER CAPACITY CHARGES

WHEREAS, it is a major responsibility of the Nipomo Community Services District ("District") to maintain adequate levels of revenue, equitably collected to meet the District's financial commitments for existing facilities and charges for new facilities to be constructed in the future which benefit the person or property being charged; and

WHEREAS, the District retained Robert Reed, of the Reed Group, Inc., to perform an analysis of the District's existing sewer user rates and capacity charges for District sewer customers and future development within the Town Division. The Reed Group Analysis is found in a report titled "Town Sewer System Financial Plan, User Rates and Capacity Charges" dated August 24, 2007 (herein the "Study"). 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 capacity charge structure and the relationship (nexus) between rates and charges to operate and maintain facilities and charges for new or expanded sewer facilities, within the Town Division, which benefit persons or property being charged; and

WHEREAS, the proposed capacity charges, as identified in the Study, reflect future developments proportional share of estimated costs for the planned wastewater treatment improvements to the District's Southland Wastewater Treatment Facility as well as the buy-in to the existing sewer system; and

WHEREAS, the Study was received and filed on September 26, 2007, and has been available for public inspection at the District office or on the District's webpage since that date; and

WHEREAS, Government Code §61115 authorizes the District to adopt rates and charges by Resolution; and

WHEREAS, based upon facts and analysis presented by Robert Reed, the Study, the Staff Report, and public testimony received, the Board of Directors finds:

A. The public meetings adopting this Resolution 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 Section 66016; and

C. The rates and charges that are the subject of this Resolution do not exceed the estimated reasonable cost for existing facilities or charges for new facilities to be constructed in the future which benefit the persons or properties being charged; and

D. That the public benefits from the logical, long-range approach to financing of public facilities; and

RESOLUTION NO. 2008-CAPACITY CHARGES (Town Division Only)

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AMENDING APPENDIX B TO CHAPTER 4.12 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH NEW TOWN DIVISION SEWER CAPACITY CHARGES

E. The purpose of the proposed rates includes obtaining funds for capital projects that are necessary to maintain services within the District boundary.

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

Section 1. Incorporation of Recitals

The Recitals are true and correct and incorporated herein by this reference. The Recitals and referenced reports and studies contained therein constitute and support the findings of the District in support of this Resolution.

Section 2.

Appendix B to Chapter 4.12 of the District Code (Town Division Sewer Capacity Charges) is hereby repealed in its entirety and replaced with the capacity charges reflected in Exhibit "A", attached hereto and incorporated into this Resolution by reference.

Section 3. Repeal of Prior Ordinances and Resolutions

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

Section 4. Effect of Repeal on Past Actions and Obligations.

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

Section 5. CEQA Findings

The Board of Directors of the District finds that the rates and charges adopted by this Resolution exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The District General Manager is directed to prepare and file appropriate notices.

Section 6. Severance Clause.

If any section, subsection, sentence, clause or phrase of this Resolution 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 Resolution. The Governing Board of the District hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause

RESOLUTION NO. 2008-CAPACITY CHARGES (Town Division Only)

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING APPENDIX B TO CHAPTER 4.12 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH NEW TOWN DIVISION SEWER CAPACITY CHARGES

and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 7. Effective Date.

This Resolution along with the new capacity charges shall take effect and be in full force and effect sixty (60) days after its adoption.

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

AYES:
NOES:
ABSENT:
CONFLICTS:

the foregoing resolution is hereby adopted this ____ day of _____ 2008.

Michael Winn, President
Nipomo Community Services District
Board of Directors

ATTEST:

APPROVED AS TO FORM

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
District Legal Counsel

RESOLUTION NO. 2008-CAPACITY CHARGES (Town Division Only)

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING APPENDIX B TO CHAPTER 4.12 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH NEW TOWN DIVISION SEWER CAPACITY CHARGES

EXHIBIT "A"

**APPENDIX "B" TO CHAPTER 4.12
TOWN DIVISION**

SEWER CAPACITY CHARGE BASED ON WATER METER SIZE

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***Annual Adjustment.** Commencing July 1, 2009, and each fiscal year thereafter, the capacity charge shall be increased to reflect the increase in the costs of the construction of District facilities. The determination of whether there has been an increase in costs and the amount of the increase in costs shall be determined by the percentage increase in the 20-Cities Construction Cost Index published by the Engineering News Record using the July, 2007, value of seven thousand nine hundred fifty-nine (7,959) as the basis and the Index value for May of each year to calculate the increase.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: JANUARY 17, 2008

**AGENDA ITEM
E-3
JANUARY 23, 2008**

ADOPT ORDINANCE AMENDING REIMBURSEMENT POLICY

ITEM

Public Hearing – Consider second reading and adoption of ordinance amending reimbursement policy [RECOMMEND ADOPTION].

BACKGROUND

Your Honorable Board, on December 12, 2007, reviewed draft amendments to Chapter 5.01 of the District's Ordinance Code, Reimbursement Agreements. On January 16, 2008, your Honorable Board conducted the first reading of the draft ordinance and set a public hearing for adoption for January 23, 2008.

The purpose of the chapter is to provide a mechanism to at least partially reimburse private parties for a portion of the costs of the public service extensions installed to serve their property if the extensions may also serve adjacent landowners in the future. Staff believes that the current ordinance code needs to be revised to clarify the costs that are allowable for inclusion in the calculation of the reimbursement fee and to require the applicant to provide additional information with the application for reimbursement to facilitate processing.

The ordinance is not subject to environmental review in accordance with the California Environmental Quality Act.

RECOMMENDATION

Staff recommends that your Honorable Board receive public comment and then vote on final adoption of the ordinance.

ATTACHMENTS

- Draft Ordinance

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2008-XXX**

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 5.01 OF THE DISTRICT CODE
REGARDING REIMBURSEMENT AGREEMENTS**

WHEREAS, pursuant to § 66485 et seq. of the Government Code, the Nipomo Community Services District ("District") may impose by Local Ordinance a requirement that improvements installed by a subdivider for the benefit of the subdivision shall contain supplemental size, capacity, number or length for the benefit of property not within the subdivision, and those improvements be dedicated to the District, and thereon enter into an agreement with the subdivider to reimburse the subdivider for that portion of the costs of those improvements, including an amount attributed to interest, in excess of the construction required for the subdivision; and

WHEREAS, based on the Staff Report, Staff presentation, and public comment, the District Board of Directors finds:

- A. That the purpose of this Ordinance is compliant with §66485 et seq. of the Government Code; and
- B. The public meetings adopting this Ordinance have been properly noticed pursuant to Government Code §54954.2 (the Brown Act).

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

Section 1. Amendment of Chapter 5.01 of the District Code

Chapter 5.01 of the District Code, as amended and attached hereto as Exhibit "1" and incorporated herein by this reference, is hereby approved and adopted by the District Board of Directors.

Section 2. Incorporation of Recitals

The recitals to this Ordinance are true and correct and are incorporated herein by reference.

Section 3. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance (including Chapter 5.01) 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 or Chapter 5.01. The Governing Board of the District hereby declares that it would have passed this Ordinance adopting Chapter 5.01 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.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2008-XXX

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 5.01 OF THE DISTRICT CODE
REGARDING REIMBURSEMENT AGREEMENTS

Section 4. Inconsistency

To the extent that the terms of provision of this Ordinance, including Exhibit "1", may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of the fifteenth (15th) day after passage it shall be published once with the names of the members of the Board of Directors voting for or against the Ordinance in a newspaper of general circulation within the District.

Introduced at an adjourned regular meeting of the Board of Directors held on January 16, 2008, and passed and adopted by the District Board of Directors on the 23rd day of January, 2008, by the following roll call vote to wit:

AYES:
NOES:
ABSENT:
ABSTAINING:

MICHAEL WINN,
President of the Board of Directors
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

DONNA K. JOHNSON
Secretary to the Board

JON S. SEITZ
District Legal Counsel

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Title 5 SEWER AND WATER MAIN EXTENSIONS AND
APPURTENANT FACILITIES
Chapter 5.01 REIMBURSEMENT AGREEMENTS

5.01.010 Purpose and applicability.

- A. The District may impose a requirement that improvements installed by a developer for the benefit of the developer's project shall contain supplemental size, capacity, number, or length for the benefit of property not within the subdivision and that those improvements be dedicated to the District.
- B. This chapter is intended to provide an equitable procedure for at least partial reimbursement to private parties who construct and dedicate District Facilities to serve their private property, if such facilities are also used thereafter to directly serve and benefit private property owned by others.
- C. Whenever an applicant is required as a condition of development, to construct and install District Facilities, which are dedicated to the District, and which have the future potential and capacity to provide service to real property parcels, not under the control or ownership of the applicant, the reimbursement provisions of this chapter shall apply, unless the District specifically provides otherwise by ordinance or resolution.

5.01.020 Definitions.

As used in this chapter the following words shall have the following meanings:

"Applicant" means sub-divider, developer, owner and/or builder.

"District" means the Nipomo Community Services District.

"District Facility(ies)" or "project" means water lines, water production facilities, sewer mains, sewer lift stations and appurtenant facilities that are dedicated and accepted by the District.

"Engineer" means District Engineer.

5.01.030 Reimbursement of excess costs.

- A. Excess costs means:
 - 1. Oversizing: The cost of installing the size of line required to serve Applicant's needs pursuant to District's plans and specifications or as identified in the Engineer's Report and the actual cost of installing a larger line at the direction of the District.

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2. Off-site development: A pro rata share of the costs of installing District Facilities and appurtenances pursuant to District plans and specifications beyond the property of the Applicant that are subject to probable future use by connectors other than Applicant.
- B. Allowable Costs: Costs which are allowable for inclusion in the calculation of excess costs are those costs which are directly related to the planning, design and construction of the District Facility, including payments to contractors and engineers, security bonds, acquiring right-of-way for the project, and amounts attributable to interest for the excess cost of oversizing the District Facilities .
 - C. Ineligible Costs: Ineligible costs include, but are not limited to, attorneys' fees, financing costs, and the Applicant's overhead and office expenses related to the coordination and supervision of contractors engaged to perform project work.
 - D. Maximum Recovery: The maximum recovery of costs for installation of a District facility will be calculated as the sum of all allowable costs of the District Facility, less the share of costs for the Applicant's use of the District Facility based upon the number of Applicant's connections or residential units equivalent as determined by the Engineer. The Applicant's maximum recovery shall also be reduced by the sum of all reimbursement fees waived by the Applicant pursuant to Agreements regarding the share of costs between the Applicant and other party or parties.
 - E. Approval of Excess Costs: District shall have the right to audit the excess costs submitted by Applicant, and to approve for reimbursement only so much thereof it determines to be just and reasonable. Such excess cost, if any, shall be computed when such facilities are completed by Applicant and accepted by District, and such shall be paid as provided in a reimbursement agreement.
 - F. Proration of Costs:
 1. The Engineer shall prorate the approved excess costs against all lots or parcels which in the future may be served by direct connection thereto ("Area of Proration"). The District shall send written notice of the prorated amount to the person shown on the latest County Assessor's roll as the owner or agent of record for assessment purposes for each parcel. Such person may protest the prorations in writing within fourteen days after the notice is mailed. If not protested within the fourteen days, the proration shall become final for the purposes of this section.
 2. A protest shall be concerned only with the division or spread of the costs between or among the Applicant's property(ies) and all other properties to be included in the Area of Proration or the boundary of the Area of Proration. A protest shall not be concerned with the actual construction costs unless the

Title 5 SEWER AND WATER MAIN EXTENSIONS AND
APPURTENANT FACILITIES
Chapter 5.01 REIMBURSEMENT AGREEMENTS

protester can demonstrate fraud or willful concealment of actual cost information as presented by the Applicant or his agent to the Engineer.

3. The District's Board of Directors shall hold a public hearing to consider all such written protests. All evidence in support of the protest shall be submitted in writing to the District at least ten days before the meeting. The Engineer shall prepare a written report and recommendation to the board on each protest. A copy of the Engineer's report shall be mailed, or otherwise delivered, to the concerned protester at least five days before the board meeting to consider the protest.
 4. The Board's decision on the protest shall be in writing, and shall be final. If the Board's decision results in an increased proration amount for properties owned by anyone other than the protester or the Applicant, a new notice and a new fourteen-day period shall be given for each such property.
 5. If no protest is filed for a property within the fourteen-day period after the first or any subsequent notice of prorated amount is mailed for that property, the proration shall become final as to the property.
- G. The Area of Proration and the final proration of costs shall be approved by Resolution of the District.
- H. The District General Manager is authorized to record a Notice on all properties that are subject to reimbursement upon adoption of the Resolution referenced in subparagraph F, above.

5.01.031 Applications for Reimbursement.

- A. In order to qualify for reimbursement of excess costs, pursuant to this chapter, Applicant shall, within ninety days of District's acceptance of District Facilities, deliver to District the following:
1. Written application requesting reimbursement of excess costs;
 2. A certified statement showing the Applicant's allowable costs in constructing District Facilities.
 3. A scale map that identifies the District Facilities and parcels which could reasonably be physically connected directly to the District Facility(ies).
 4. A list of each owner's name, address, county assessor's parcel number and current zoning for each parcel identified on the scale map referenced in subparagraph 3 above.

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APPURTENANT FACILITIES
Chapter 5.01 REIMBURSEMENT AGREEMENTS

5. A statement disclosing any agreements regarding the sharing of the District Facility costs which exist between the Applicant and any other party or parties.

B. The Applicant shall provide other information requested by the District Engineer and shall cooperate with the Engineer in reviewing costs.

C. If Applicant does not submit the application and information required in subparagraph A, above, within ninety days of District's acceptance of the District Facility (ies), Applicant shall have waived all right to reimbursement.

5.01.035 Reimbursement Agreement

A. Upon the Applicant complying with 5.01.031, the District shall enter into a Reimbursement Agreement that is consistent with this Chapter.

B. The Reimbursement Agreement shall require Applicant to reimburse the District's costs in processing the application for reimbursement.

5.01.040 Ten-year repayment obligation.

Provided that Applicant has complied with all provisions of this Chapter and the District has adopted a final Resolution pursuant to 5.01.030 (F), for a period of ten years from the date of acceptance of the District Facilities, the Applicant shall be eligible for reimbursement as provided in the Reimbursement Agreement from each parcel as the parcel, or portion thereof, connects to the District Facility(ies).

5.01.050 District to serve as collection agency.

The District shall collect the prorated amount for each parcel before permitting the parcel to connect to the District Facility. It is the duty of the Applicant to keep a current address on file with the District. Reimbursement amounts returned to the District and unclaimed within one year thereafter shall become the property of the District.

5.01.060 District administrative costs.

As partial reimbursement to the District for its administrative costs in record keeping, collection and disbursement activities, the District shall charge, deduct and retain five percent (5%) of all reimbursement amounts collected from subsequent connections to District Facilities .

5.01.070 District connections.

A. The District may make connections to the water and sewer Facilities to serve public facilities that are outside the Area of Proration, without any obligation to pay

Title 5 SEWER AND WATER MAIN EXTENSIONS AND
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Chapter 5.01 REIMBURSEMENT AGREEMENTS

any such reimbursement, upon a determination that there is sufficient capacity in the District Facility to serve the Area of Proration and the public facilities .


B. The District may also make or permit connections to the Facilities to serve private property outside of the area of proration as determined by the Engineer; provided, however, that the District Board reserves the right to determine at that time whether or not the owners of such private property shall be obligated to reimburse Applicant as provided in this chapter.

5.01.080 All other District water and sewer charges in effect.

Nothing herein shall be construed or applied to affect or reduce any other District charges, fees, connections or other amounts payable to the District for water and sewer service.

5.01.090 District liability.

If for any reason the reimbursable cost is or becomes uncollectible, as determined by the District, the District shall not be liable to the Applicant for the excess costs in constructing the District Facilities.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL 
DATE: JANUARY 15, 2008

AGENDA ITEM
E-4
JAN. 23, 2008

RECEIVE PRESENTATION REGARDING WATER WELL REGULATION

ITEM

Receive presentation from District Legal Counsel regarding options to regulate groundwater wells [PROVIDE POLICY GUIDANCE].

BACKGROUND

District Legal Counsel Jon Seitz is scheduled to present options to regulate groundwater wells.

RECOMMENDATION

Staff recommends that your Honorable Board receive the presentation, ask questions as appropriate, and provide policy direction.

ATTACHMENTS

- None

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TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: JANUARY 15, 2008

**AGENDA ITEM
E-5
JAN. 23, 2008**

FORM AD HOC COMMITTEE TO INTERACT WITH BLACKLAKE COMMUNITY

ITEM

Approve formation of Ad Hoc Committee to interact with Blacklake Community, approve mission statement and ratify President's nominees [RECOMMEND ADOPTION].

BACKGROUND

Your Honorable Board, at your January 9, 2008 Board Meeting canceled the 1/23/08 Protest Hearing for the Blacklake Sewer User Fee and agreed to receive additional input from the Blacklake Community. A Blacklake resident, at that meeting, also requested that your Honorable Board form an Ad Hoc Committee.

President Winn has placed this item on this agenda to consider forming such an ad hoc committee including the approval of a mission statement. President Winn has nominated Vice President Harrison and himself to serve on the Ad Hoc Committee. Attached is staff's draft Mission Statement, which describes the Committee as a communications forum for interaction with interested Blacklake residents. Staff has been told by legal counsel engaged by the Blacklake Management Council that the Council nor its sub-committees can represent the Blacklake Community.

RECOMMENDATION

Staff believes that the Ad Hoc Committee will provide an opportunity to receive input from interested Blacklake residents and to provide information to interested Blacklake residents, however, the Ad Hoc Committee should be prohibited from negotiating future user fees or surcharges. Staff recommends that your Honorable Board form the Ad Hoc Committee with the attached Mission Statement and ratify the President's nominees to serve on that Ad Hoc Committee.

ATTACHMENTS

- Mission Statement

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MISSION STATEMENT

BLACKLAKE AD HOC COMMUNICATIONS COMMITTEE

The mission of the Blacklake Ad Hoc Communications Committee is to:

- Interact with interested Blacklake Residents,
- Gather information relevant to NCSD,
- Provide information regarding NCSD and
- Forward gathered information to the NCSD Board.

The Ad Hoc Committee is prohibited from negotiating user fees and surcharges.

The Ad Hoc Committee shall automatically terminate on December 31, 2008 unless it is disbanded earlier by the Board of Directors.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: JANUARY 15, 2008

**AGENDA ITEM
E-6
JAN. 23, 2008**

CONSIDER REQUEST TO REVIEW OF INTENT-TO-SERVE POLICY

ITEM

Consider request of Director Eby to modify existing Intent-To-Serve Policies [PROVIDE POLICY GUIDANCE].

BACKGROUND

Attached is the request from Director Eby to modify existing Intent-To-Serve Policies. The purpose of this agenda item is to determine the Board's desire to proceed with the request.

Currently, the issuance of Intent-To-Serve Letters is governed by Chapter 3 of the NCSD Code. Inside of Chapter 3, Section 3.05 establishes an allocation system and Section 3.24 addresses emergency water shortage regulations.

Your Honorable Board amended Section 3.05 in April 2007 via Ordinance 2007-106. This ordinance provides for a maximum commitment of 34.3 acre feet per year to new Intent-To-Serve Letters with the understanding that the Board will revisit the allocation in Allocation Year 2008-2009 (AY 2008-2009) to determine if any additional Intent-To-Serve Letters should be issued after September 30, 2009 without the importation of supplemental water. As of 1/15/08, NCSD has granted Intent-To-Serve Letters committing 26.4 acre feet of water in AY 2007-2008 (See attached summary) and another 4.0 acre feet of water in AY 2008-2009 (See attached summary). Thus, 7.9 acre feet of water is left to allocate in AY 2007-2008 and 30.3 acre feet of water is left to allocate in AY 2008-2009.

NCSD Code Section 3.24 provides for Emergency Water Shortage Regulations. The draft ordinance proposed by your Honorable Board at your January 16, 2008 Meeting, would suspend the issuance of Intent-To-Serve Letters anytime the District was in a Stage 2 Water Shortage (NMMA groundwater storage above sea level less than 90,000 AF).

Enactment of a moratorium would entail the adoption of an ordinance declaring a water shortage emergency pursuant to Water Code Section 350 based on findings that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. Such an ordinance could revise Sections 3.5 and/or 3.24 or it could be a stand-alone ordinance ordering a moratorium and suspending the relevant provisions of Section 3.5 and the proposed amendments to Section 3.24.

RECOMMENDATION

Staff recommends that your Honorable Board discuss the above and provide policy guidance.

ATTACHMENTS

- Director Eby Request
- Allocation Summaries

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Bruce Buel

From: edeby@charter.net
Sent: Wednesday, January 09, 2008 8:48 AM
To: Bruce Buel
Cc: Mike Winn
Subject: Intent-to-Serve Moratorium
Attachments: ITS Moratorium.doc; ATT113912.htm

Pursuant to Section 2.04.030 of the NCSD code, I formally request that the January 23, 2008 NCSD regular meeting include an agenda item considering a temporary moratorium on issuing Intent-to-Serve (ITS) letters. The rationale for this agenda item is presented in the attached document.

Regards,
Ed Eby

Intent-to-Serve Moratorium

The January 6, 2008 SAIC memorandum predicts a catastrophic groundwater in storage condition in 12 to 14 years, whether or not we achieve 50% consumptive use reduction.

If our rainfall continues its historic pattern, we will be asking our customers to live with a 50% reduction in water use, while we continue to add new customers. This apparent inconsistency is not lost on our existing customers. We will soon be asking our current customers to accept staggering increases in their water and sewer rates to support sewer plant upgrades, groundwater recharge, and development of supplemental water sources. There is also the controversy of equity surcharges. It is unlikely we will enjoy support for our projects without customer confidence in our performance. While a moratorium may not achieve highly significant improvement in the groundwater situation, it will show a uniform pattern of "conservation" by the NCSD, and avoid criticism and loss of confidence. I can only remind you of the recent successful protest by the Cambria CSD customers under less dire conditions than we face.

I propose, in our discussions on January 23, that we consider an immediate moratorium on ITSs based on the facts in the referenced SAIC report. At present, we do not have certainty when supplemental water will be available in our system. While desalination is technically feasible, we have no certainty if or when outside agencies will grant us the permits. Again, we must recognize the difficulties Cambria is having with their desalination permitting activities. The Waterline Intertie Project does not have a firm schedule, or even a formal agreement with Santa Maria that we will be able to purchase that water. Our only certainty is that, without supplemental water, we will face seawater intrusion in 12 to 14 years, or sooner.

Some issues associated with the moratorium are:

- When does it become effective?
- What event(s) are required to lift the moratorium?
- What happens to ITSs already issued?
- What happens to Will Serves already issued?
- What happens to ITSs that expire?
- Shall there be a new allocation schedule when the moratorium is lifted?

I suggest that the effectivity of the moratorium be immediate (as of January 23) if that is legally possible. This should prevent a speculative rush to invest in ITS applications. I suggest that we do not lift the moratorium until we have high confidence in a supplemental water availability date that avoids the SAIC seawater intrusion predictions. Possibly an event such as signing a formal agreement with Santa Maria might be a necessary, but not sufficient event required to lift the moratorium.

Ed Eby
January 9, 2008

Nipomo Community Services District
Water Allocation Accounting Summary

WATER YEAR 2007-2008													
Project	Dwelling units per category				Water allotment (acre-feet)					Total	Tally	Notes:	
	SFR > 10	SFR 4.5 - 10	SFR < 4.5	SEC	MF	Low I	SFR/DUP	SEC	MF				Low I
							21.9	3.4	6.9	2.1		34.3	
APN 092-083-009/010 - PHASED (year 4 of 4)					11		0.0	0.0	(2.0)	0.0	(2.0)	32.3	Board approved 5/25/5
APN 092-130-043, GRANDE-PHASE (year 3 of 3)					10		0.0	0.0	(1.8)	0.0	(1.8)	30.5	BOD approved 10/26/05
APN 092-130-044 ROOSEVELT apts, Phased 3/4					11	4	0.0	0.0	(2.0)	(0.7)	(2.7)	27.8	BOD Approved 5/10/06
Tract 2441, Blume&Grande, Phased 2/2			17				(5.1)	0.0	0.0	0.0	(5.1)	22.7	BOD Approved 10/25/06
Tract 2906, Allshouse, 1 Ave De Amigos					11		0.0	0.0	(2.0)	0.0	(2.0)	20.7	BOD Approved 2/28/07
APN 092-130-014 Euc Gardens, Phased 2/6					11	4	0.0	0.0	(2.0)	(0.1)	(2.1)	18.6	BOD Approved 5/25/07
Tract 2689; 691 W. Tefft; Flatley					11		0.0	0.0	(2.0)	0.0	(2.0)	16.6	BOD Approved 9/14/07
APN 092-142-034; 557 Grande; Moriarty			15				(4.4)	0.0	0.0	0.0	(4.4)	12.2	BOD Approved 12/12/07
335 North Thompson; Knox		2					(0.9)	0.0	0.0	0.0	(0.9)	11.3	GM Approved 10/3/07
561 Camino Caballo; Guterrez					1		0.0	(0.2)	0.0	0.0	(0.2)	11.1	GM Approved 10/15/07
375 Red Oak Way					1		0.0	(0.2)	0.0	0.0	(0.2)	10.9	GM Approved 10/25/07
131 E Vintage Street					1		0.0	(0.2)	0.0	0.0	(0.2)	10.7	GM Approved 12/7/07
781 W. Tefft Street; Kengle		2					(2.0)	0.0	0.0	0.0	(2.0)	8.7	GM Approved 12/11/07
782 Pomeroy; Bruce Davis					1		0.0	(0.2)	0.0	0.0	(0.2)	8.5	GM Approved 12/18/07
1235 Futura Lane			1				(0.6)	0.0	0.0	0.0	(0.6)	7.9	GM Arroved 1/8/08
Totals	0	3	32	0	65	8	(13.0)	(0.8)	(11.8)	(0.8)	(26.4)		
Abbreviations defined:													
SFR = single family residence													
SEC = secondary dwelling (a.k.a. Granny Unit)													
DUP = Duplex													
MF = multi-family development (e.g. mutiple dwelling units sharing a common roof)													
Low I = Low income housing in accordance with County housing definition.													
Phasing Limit Check (Max 50% of annual allocation or 25.5 AF)													
Phased allocation = 6.5													

Nipomo Community Services District Water Allocation Accounting Summary

Water Year 2008-2009															
NUMBER OF UNITS						ACRE-FEET OF ALLOTTED WATER						Notes:			
	SFR > 10	SFR 4.5 - 10	SFR < 4.5/DUP	SEC	MF	Low I	SFR/DUP	SEC	MF	Low I	Total	Tally			
Project							21.9	3.4	6.9	2.1		34.3	Low I (low income) pulls from SFR/DUP		
APN 092-130-044 ROOSEVELT apts, Phased 4/4					7		0.0	0.0	(1.3)	0.0	(1.3)	33.0	BOD Proposed 5/10/06		
APN 092-130-014 EUC GARDENS, phased 3/6					11	4	0.0	0.0	(2.0)	(0.7)	(2.7)	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
							0.0	0.0	0.0	0.0	0.0	30.3			
Totals	0	0	0	0	18	4	0.0	0.0	(3.3)	(0.7)	(4.0)				
Phasing Limit Check (Max 50% of annual allocation or 25.5 AF)							Percent of annual allotment:		0.0%	0.0%	47.2%	33.3%	11.5%		
Phased allocation = 1.3							Updated:								
							Percent Water-Year over:								
<div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Abbreviations: SFR = single family residence SEC = secondary dwelling (a.k.a. Granny Unit) DUP = Duplex MF = multi-family development (e.g. mutiple dwelling units sharing a common roof) </div>															