

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: MARCH 7, 2008

**AGENDA ITEM
E-2
MAR 12, 2008**

REQUEST TRANSFER OF MILLER PARK PARCEL

ITEM

Authorize submittal of request to SLO County to transfer property located at NE corner of Tefft and Carrillo (Commonly know as Miller Park) and to negotiate Memorandum of Understanding [RECOMMEND ADOPTION].

BACKGROUND

In February, your Honorable Board reviewed the draft Miller Park Assessment Report and authorized staff to propose a resolution initiating the formation of a Zone of Benefit to pay for the local benefit portion of the operating cost of Miller Park. Staff received the attached letter from SLO County on March 3, 2008 stating SLO County staff's position that NCSD should secure Board of Supervisor approval for donation of the parcel "before further steps are taken to create a park assessment district." In light of the attached letter, staff delayed introduction of the Zone of Benefit Resolution.

Also attached is a draft MOU that NCSD staff presented to the County in early 2007. At that time, County staff indicated that such an MOU was not necessary.

RECOMMENDATION

Staff recommends that your Honorable Board authorize the submittal of a formal request to SLO County to transfer the property and to negotiate a Memorandum of Understanding so that the responsibilities of the two parties are clearly delineated. Staff further recommends that the formation of the Zone of Benefit be deferred until the property transfer and the MOU can be resolved.

ATTACHMENTS

- SLO County Staff Letter
- Draft MOU

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COUNTY OF SAN LUIS OBISPO

Department of General Services

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5200

February 29, 2008

*By Certified Mail,
Return Receipt Requested*

Bruce Buel, District Manager
Nipomo Community Services District
148 S. Wilson Avenue
Nipomo, CA 93444

Dear Mr. Buel,

The Department of General Services has reviewed the enclosed newspaper article published February 20, 2008 in the Santa Maria Times titled "Nipomo district starts process toward park." The article stated that a report on the formation of an assessment district for a proposed community park was discussed at the February 13, 2008 meeting of the Nipomo CSD. The proposed park site is a one-acre parcel on the North side of Tefft Street that is currently owned by the County (APN 090-141-006).

The article states that the County has indicated that it will donate the land to the District. An assessment district report by the Wallace Group dated September 28, 2007 also relies on the assumption that the County will donate the land. We understand there were several previous meetings with former General Services Director, Duane Lieb, Supervisor Achadiian, and Chuck Stevenson regarding the potential use of this site for park purposes. The Department of General Services, however, has received no direction from the Board of Supervisors with respect to the County-owned land.

If this property were to be donated or leased to the District for park purposes, it would require the Board to first declare the property surplus and not necessary for County's use. The Board could then elect to transfer ownership of the property or lease it to the Nipomo CSD for park purposes, provided there was at least a 4/5ths vote of approval.

Before further steps are taken to create a park assessment district, the Board of Supervisors should clearly state their intention with regard to this property, which may include determining its future use and whether they want to declare it surplus. Therefore, if you intend to proceed forward, we would ask that you make a formal written proposal and request for use of the site for a park and under what legal arrangement the property would be developed and held. I would ask that such a request be sent to my attention.

Sincerely,

Caryn Magdalena
Real Property Manager

Enclosure

c: County Board of Supervisors
George Rosenberger
Janette Pell
Rita Neal
Chuck Stevenson

Nipomo district starts process toward park

By Mike Hodgson/Associate Editor

Nipomo Community Services District took the first step toward activating its parks powers and developing its first park by authorizing staff to begin working on a zone of benefit for the proposed Miller Park in Olde Towne Nipomo.

The board of directors plans to hold a public hearing at its March 12 meeting to consider a resolution that would launch the development of a zone of benefit.

Although at least two directors worried about spending funds on the park instead of on supplemental water, the board voted unanimously to approve a revised park plan and start the process to develop it.

It will cost an estimated \$1 million to develop the park if the county donates the land, as it has indicated it will, on the north side of West Tefft Street at Carillo Street.

NCSD would use a portion of its property tax reserves - expected to reach a little over \$2 million by the end of the year - to pay for any development costs that can't be covered by grants and donations.

Director Cliff Trotter asked what projects the district would be shorting on funds if money was diverted to build the park, and general manager Bruce Buel said the only thing the district has committed property tax reserves to is securing supplemental water.

Director Ed Eby said the park would be nice, but he recommended putting off any action to develop it, and Trotter agreed.

"We don't know what supplemental water will cost, we don't know where we'll get it, yet we're proposing to reduce the pool of funding," Eby said. "I do not want to raid any potential sources of funding. We have a life-threatening situation with water; we do not have a life-threatening situation with regard to parks."

But board President Mike Winn did not agree.

"I just don't know if we can tell the community (surplus water) is our only priority," he said, noting higher density development will result in families with no parks for their children.

"We all grew up with open space, vacant lots and so forth," he said. "Kids now are in a concrete cage. ... We can survive without parks, but life is grim."

He said an intangible benefit of developing the park would be to make West Tefft Street between Thompson Road and Highway 101 more attractive to developers, thus drawing people who would

generate taxes.

“If we don't move now, we're never going to get it,” said Director Larry Vierheilig.

The park, named in memory of the late Jim O. Miller, a longtime Nipomo booster, businessman and landowner, would include a community Christmas tree, a gazebo for concerts and a pole barn to house Nipomo Farmers Market.

It would contain a memorial rose garden, lawn areas with trees - but no barbecues - and a small restroom. It would also incorporate the existing Pacific Coast Railway memorial.

The annual cost to operate and maintain the park is estimated at \$20,776, and property taxpayers within the proposed zone of benefit would pick up a portion of that cost.

As proposed, the zone would be divided into a primary district - those closest to the park - and a secondary district. Parcels within the primary district would be less than 0.4 of a mile from the park; parcels in the secondary district would be within 0.75 of a mile from the park.

The primary district would pay 40 percent of the operation and maintenance costs, the secondary district would pay 20 percent and NCSD would pick up the remaining 40 percent.

But getting to that point involves a long process. If the owners of 50 percent of the assessed value of all taxable property and 50 percent of the voters in the proposed zone protest its formation, the zone could not be formed and the whole plan would collapse.

If the zone is approved, however, subsequent steps would include negotiating the allocation of property taxes, publication of a draft report, a number of public reviews, preparation and adoption of a financial plan and the preparation of an initial California Environmental Quality Act study and a subsequent CEQA review.

That would be followed by an assessment election as required by Proposition 218.

If the assessment district is approved, only then could NCSD petition the Local Agency Formation Commission to activate the district's latent parks powers.

If LAFCO agrees to activate NCSD's parks powers, then the district could have the property transferred from the county and start construction of the park.

Depending on how long the various steps take, it could put the park opening two years or more away.

Associate editor Mike Hodgson can be reached at 925-2691, Ext. 2221 or mhodgson@santamariatimes.com.

February 20, 2008

MEMORANDUM OF UNDERSTANDING
BETWEEN THE NIPOMO COMMUNITY SERVICES DISTRICT AND
THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S ACTIVATION OF PARK POWERS

This Memorandum of Understanding ("MOU") is entered by and between the Nipomo Community Services District (hereafter "District") and the County of San Luis Obispo (hereafter "County") with reference to the following Recitals:

RECITALS

A. The District is a Community Services District formed and operated pursuant to California Government Code §§61000 et seq. Pursuant to Government Code §61100 (e) the District is authorized to "acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code." ("Park Powers"); and

B. The District is considering the activation of Park Powers pursuant to the Cortese-Knox-Hertzberg Act ("the Act" Government Code §56000 et set.) and the rules and regulations of the Local Agency Formation Commission ("LAFCO"); and

C. The County is the owner of certain real property consisting of approximately one (1) acre located at the northeast corner of West Tefft and Carrillo Street, Nipomo, California, (herein the "Property"); and

D. The County has offered, without compensation, the Property to the District for the purposes of operating a park; and

E. Pursuant to Government Code § 56824.14, the District's exercise of Park Powers must be approved by LAFCO; and

F. It is the purpose of this MOU to identify the responsibilities of the parties in developing the Property for use as a park and the transfer of the Property to the District, upon LAFCO activation of District's Park Powers.

NOW, THEREFORE, the parties agree as follows:

1. District and County will work cooperatively to:
 - a. develop a plan identifying park features and improvements;
 - b. identify funding mechanisms (including but not limited to grants, donations and assessment districts) to construct park improvements and for ongoing operation and maintenance.

2. Upon completion of the tasks referenced in paragraph 1, above, District will apply to LAFCO to activate Park Powers. LAFCO approval to be conditioned on:

- a. compliance with the California Environmental Quality Act (CEQA);
- b. implementation of a funding mechanism to support construction of park improvements and the longterm operation and maintenance.

3. Upon LAFCO approval of the District's activation of park powers, County shall transfer Property to District.

4. Upon transfer of the Property to District pursuant to paragraph 3, above, District agrees to use its reasonable best efforts to construct the park improvements referenced in paragraph 1(a), above, and thereon operate and maintain the Property as a park.

5. Notwithstanding LAFCO's approval of the District's activation of park powers, the District shall have no obligation to operate other parks within the District boundaries except by mutual written agreement between the County and the District.

6. Recitals A through F are true and correct and incorporated herein by this reference.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding to be effective on the date of the last party to approve the MOU.

MICHAEL WINN, President
Nipomo Community Services District

Chair, Board of Supervisors
County of San Luis Obispo

DATED: _____, 2007

DATED: _____, 2007

APPROVED AS TO FORM AND LEGAL EFFECT

JON S. SEITZ, District Legal Counsel
Nipomo Community Services District

County Counsel

Dated: _____, 2007

Dated: _____, 2007

ATTEST:

District Secretary

Dated: _____, 2007

County Clerk Recorder

Dated: _____, 2007