

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BBB*  
DATE: FEBRUARY 18, 2009

**AGENDA ITEM  
E-2  
FEBRUARY 25, 2009**

CONSIDER OPTIONS FOR PHASING LARGE COMMERCIAL PROJECTS

**ITEM**

Consider option to amend Intent-To-Serve Policy to allow for phasing of large commercial projects [PROVIDE POLICY GUIDANCE].

**BACKGROUND**

At the January 14, 2009 Board meeting, the Board directed staff to present possible code changes for the Board's consideration in response to the request from George Newman, representative for Nipomo Business Park, LP, developer of Tract 2652, for phasing payment of fees for the project.

The District's existing connection fee code requirements were established in 1998 and revised in 2005. The District code in 1998 was as follows:

**3.04.050 Connection fees.**

A. New connections shall be subject to water connection fee/capacity charges based on the estimated reasonable cost of the district facilities to provide the service. These fees shall consist of the following component parts: capacity charges (including a supplemental water charge), meter fee, account set-up fee, and reimbursement charge, if applicable. These fees are established in Appendix A to this chapter.

**B. Reimbursement Charges.**

1. When a new service is connected to a district installed water line, the applicant shall be charged a front footage fee of twenty-one dollars per foot to each parcel fronting the improvements or one-half this amount when district service can be provided on both sides of the water line. Where the frontage has been subdivided, rear and front parcels are to share on a per parcel basis the frontage of the subdivision creating the parcels.

2. When a new service is connected to a developer-installed water line pursuant to Title 5, the applicant shall pay a supplemental charge pursuant to that reimbursement agreement.

C. The meter fee and account set-up fee shall be established and amended by resolution of the board of directors with reference to this code section.

D. Payment of Fees for Connection. The applicant shall pay the water capacity charge, sewer capacity charge, meter fee and account set-up fee prior to the district's issuance of a will-serve letter. The district shall not provide water service until all fees are paid in full and the project (if applicable) is accepted by the district.

In 2005, Section 3.04.050 (D) of the District Code was deleted and Section 3.04.051 was added:

**Section 3.04.051 Payment of Connection Fees and Capacity Charges.**

The applicant shall pay the water capacity charges, sewer capacity charges, supplemental charge (if applicable), meter fee

and account set-up fee, collectively "Fees for Connection" as follows:

- A. The Applicant shall make a non-refundable deposit ("Deposit") at the time the District issues a Will-Serve Letter in an amount equal to the then calculated Fees for Connection.
- B. The Fees for Connection shall be calculated and owing as of the date the District sets the water meter(s) to serve the affected property from which the amount of the Deposit shall be deducted.
- C. The District will set water meter(s) upon proof of a building permit from the County of San Luis Obispo and that the District has accepted improvements to be dedicated to the District, if applicable.

One alternative to accommodate large multi-parcel projects within commercial zones would be to add provisions to the District's code as follows:

- 1) All capacity charges related to existing District infrastructure to be paid up front prior to issuing Will Serve Letter plus 50% of the supplemental water capacity charge.
- 2) Remaining supplemental water capacity charge would be due and payable as follows:
  - a. Sale of the property; or
  - b. Within 18 months of issuance of Will-Serve Letter;
  - c. Prior to setting water meters.
- 3) The remaining supplemental water capacity charge related to the capital cost for the Santa Maria Intertie project would be waived upon the formation of an assessment District or other taxing District. The portion of the capacity charge related to the Desalinization would not be waived and would be included in the first 50% up front.
- 4) This procedure would only apply to multi-parcel projects with commercial zoning.

Another alternative is already available under the District's existing ordinance code and that alternative is to phase the subdivision map. This alternative allows the District to issue Will-Serve letters for one phase at a time based on the lot phasing proposed by the developer.

### **RECOMMENDATION**

Staff recommends that your Honorable Board obtain public input, discuss the policy issues, provide policy guidance to staff and direct staff to develop the draft ordinance revisions necessary to implement any policy changes.

### **ATTACHMENTS**

None



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DATE: FEBRUARY 18, 2009

**AGENDA ITEM  
E-3  
FEBRUARY 25, 2009**

EXTEND TERM OF OUTSIDE-USER AGREEMENT – TRACT 2642

**ITEM**

Consider request to extend term of Outside-User Agreement for Tract 2642, an eighteen (18) lot subdivision on South Oakglen Avenue [APPROVE, DENY OR CONTINUE].

**BACKGROUND**

Tract 2642 is a proposed 18 lot residential subdivision on South Oakglen Avenue that is within the District's Sphere of Influence but outside of the District's current boundary. The project is being developed by Carl Holloway, the applicant.

An Outside User Agreement for Tract 2642 was approved by the District Board on February 28, 2007 and was subsequently approved by the Local Agency Formation Commission of San Luis County on March 15, 2007. Based on the LAFCO approval date, the current agreement required the applicant to commence construction of water and sewer improvements by September 15, 2008 and allowed the applicant to request a six (6) month extension. The applicant submitted a request for a two (2) year time extension of the outside user agreement instead of a six (6) month extension in August 2008 and in September 2008, the Board approved a six (6) month extension to March 15, 2009.

The applicant's engineer submitted improvement plans to the District in October 2008 for plan check, the District provided comments in November 2008 and applicant's engineer submitted revised plans in January 2009. The District is currently reviewing the latest submittal. Staff's understanding is that the project is also concurrently going through the County's subdivision map and plan review process.

Attached is a request from the applicant dated February 2, 2009 for a two (2) year time extension of the outside user agreement. If the Board approves the applicant's request, the applicant would have until March 15, 2011 to begin construction of the water and sewer improvements for the project.

**RECOMMENDATION**

Staff requests your Honorable Board provide staff with direction to approve, deny or continue the applicant's request.

If the Board desires to approve the applicant's request, then staff should be directed to prepare an amendment to the outside user agreement, for Board approval at a subsequent meeting, to allow the applicant until March 15, 2011 to begin construction of the water and sewer improvements.

**ATTACHMENTS**

Letter Requesting Extension Dated February 2, 2009

RECEIVED  
FEB 03 2009  
NIPOMO COMMUNITY  
SERVICES DISTRICT

February 2, 2009

Bruce Buel  
Nipomo Community Service District  
148 S. Wilson Street  
San Luis Obispo, CA 93401

**RE: Request for Two-Year Time Extension on Outside User Agreement  
Tract 2642, Oakglen Ave, Nipomo**

Dear Mr. Buel:

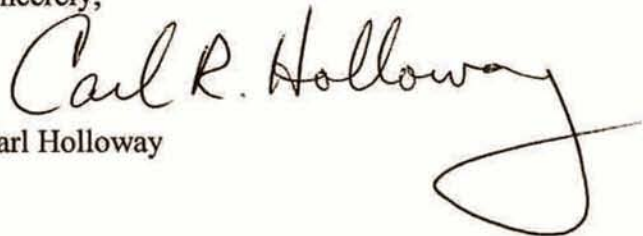
We would like to request a two-year time extension on Tract 2642 Outside User Agreement which will expire on 3/14/09. We resubmitted the Revised Improvement Plans to you on 1/20/09 and are scheduled to submit the map and plans to the County this week.

We were instructed to submit this written request in order to be scheduled and heard at an NCSD Board Meeting.

If you should need additional information or have any questions, please contact Terry Orton at Westland Engineering, Inc. at 541-2394.

Thank you once again for your consideration of this request.

Sincerely,

  
Carl Holloway