

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: MARCH 6, 2009

**AGENDA ITEM
E-1
MARCH 11, 2009**

DISCUSS COMMUNICATION WITH CONSTITUENTS

ITEM

Discuss Draft Blacklake Area Oversight Committee Bylaws, review District Resolution 96-592 and consider options to facilitate communication with constituents

BACKGROUND

Your Honorable Board, on February 11, 2009, reviewed the attached Draft Bylaws submitted by the Blacklake Management Association Board and set this item to consider options for communication with constituents. The Bylaws respond to a provision of District Resolution 96-592 (attached), which was adopted by the NCSD Board in 1996 when state law was less restrictive regarding District standing committee procedures.

In regards to the Draft Bylaws, staff believes that the current draft raises serious issues regarding potential conflicts of interest for any individual who would serve on the proposed Committee. If the goal of Resolution 96-582 is to promote good communication from the District to Blacklake and from Blacklake to the District, staff believes that a better mechanism would be a Standing or Ad Hoc Committee comprised of two NCSD Directors whose mission would be to interact with the Blacklake Management Association Board (and any other group of constituents) on a request basis. In addition, staff could be directed to provide notice to the Blacklake Management Association Board (and any other group of constituents) of any agenda item that may have a direct impact on their respective interests and to meet with such groups on a request basis with or without the Standing Committee.

FISCAL IMPACT

Full implementation of Resolution 96-592 would entail dedication of budgeted staff time to meet with the BLAOC along with posting of agendas and clerical support. Rescission of Resolution 96-592 would entail approximately \$300 worth of legal support and budgeted staff time. Should a District Committee be formed, Director Compensation would be \$100 to \$200 per meeting plus budgeted staff time for posting, support and minutes.

RECOMMENDATION

Staff supports mechanisms to facilitate communication with NCSD's constituents, but believes that both the Draft Bylaws and the BLAOC Concept are unworkable. Staff recommends that the Board direct staff to prepare a new resolution rescinding 96-592 and proposing the formation of a new District Committee and direction for staff communication.

ATTACHMENTS

- Draft BLAOC Bylaws
- Resolution 96-592

**BYLAWS OF
THE NCSD BLACKLAKE AREA OVERSIGHT ADVISORY COMMITTEE**

ARTICLE I – NAME

The name of this organization shall be the NCSD BLACKLAKE AREA OVERSIGHT ADVISORY COMMITTEE, herein referred to as the Blacklake Advisory Committee or BLAC.

ARTICLE II – PURPOSE AND OBJECTIVES

Section 1: The mission of the BLACKLAKE AREA OVERSIGHT ADVISORY COMMITTEE (Blacklake Advisory Committee or BLAC) shall be (a) to provide a forum for citizen involvement, (b) to seek to achieve sound community planning and development of the Nipomo Community Services District through consideration of social, technological, environmental and political impacts and (c) to advocate measures to promote a safe environment for our residents and ratepayers.

Section 2: Resolution 96-592 of the Nipomo Community Services District recognizes the BLAC as the advisory committee from Blacklake Village.

ARTICLE III – GEOGRAPHICAL BOUNDARIES

Section 1: The Blacklake Advisory Committee's geographic boundaries are Blacklake Village.

ARTICLE IV – BASIC POLICIES

Section 1: Following are the basic policies of the Blacklake Advisory Committee:

- a. The Blacklake Advisory Committee will be noncommercial, nonsectarian and nonpartisan.
- b. The name of the Committee, or names of the members in their official capacities, will not be used to endorse or promote commercial concern or in connection with any partisan interest or for any purpose not appropriately related to promotion of the objectives of the organization.
- c. The Committee will not directly or indirectly participate or intervene (in any way, including the publishing or distributing of statements) in any political campaign on behalf of, or, in opposition to, any candidate for public office.
- d. The Committee will not enter into membership with other organizations except with the approval of the Nipomo Community Services District.
- e. No member of the BLAC will make commitments that bind the Village he or she represents without Committee approval. A conflict of interest through litigation or financial interest must be discussed before the BLAC prior to the individual Committee member speaking on behalf of the BLAC.
- f. The loan, sale or any commercial use of BLAC records, including lists of BLAC members, addresses by any officer or member, is strictly prohibited.
- g. The BLAC will not tolerate any unlawful discrimination or sexual harassment.

h. The BLAC shall be governed by the regulations of the Ralph M. Brown Act, California Code section 54950.

ARTICLE V – MEMBERSHIP OF THE BLACKLAKE ADVISORY COMMITTEE

Section 1: The BLAC shall consist of the nine members of the Blacklake Management Association (BLMA) Board.

- a. Chairperson: The presiding Chairperson of the BLMA shall serve as the Advisory Committee Chairperson.
- b. Past Chairperson: The immediate Past Chairperson of BLMA is entitled to sit on the Committee if he/she chooses, for one year. The past Chairperson is not a voting member. If he/she cannot or is not willing to serve, that seat shall remain vacant for the rest of the calendar year.
- c. Committee members shall serve so long as they are on the BLMA Board.
- d. If a Committee member resigns, or is removed from office for cause, the position will remain vacant until filled by the new representative, per BLMA bylaws.

Section 2: Conflict of Interest

- a. All BLAC members shall comply with the model Conflict of Interest Code for state and local agencies promulgated by the California Fair Political Practices Commission, set forth in Title 2 California Code of Regulations §18730 et seq., only as enumerated in the following paragraph:
- b. No BLAC member shall make, participate in making, or in any way attempt to use his or her position to influence the making of any decision which he or she knows or has reason to know, will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the Advisory Committee member or a member of his or her immediate family or on:
 1. Any business entity in which the BLAC member has a direct or indirect investment worth two thousand dollars (\$2,000) or more;
 2. Any real property in which the BLAC member has a direct or indirect interest worth two thousand dollars (\$2,000) or more;
 3. Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the BLAC member, within 12 months prior to the time when the decision is made;
 4. Any organization in which the BLAC member is a director, officer, partner, trustee, employee, or holds any position of management: or
 5. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$340 or more provided to, received by, or promised to the BLAC member within 12 months prior to the time when the decision is made.

- c. Members having a conflict of interest concerning any issue before the Advisory Committee shall declare the nature of their conflict of interest and recuse themselves, leaving the meeting before discussion begins and staying there until the issue is concluded.

Section 3: The Advisory Committee shall meet at least once a year, and additionally as often as issues particular to Blacklake Village require, as determined by the BLMA Board or requested by the NCSD.

ARTICLE VI – DUTIES OF ADVISORY COMMITTEE OFFICERS

Section 1: Chairperson

- a. Preside at all meetings of the BLAC and set the agenda, with input from other Committee members;
- b. Make the Agenda for each meeting, in consultation with the Past President or, in his or her absence, the Vice Chairperson. Items not supported by the Chairperson may still be agendaized with the support of four Committee members.
- c. Coordinate the work of the officers, committees, subcommittees, task forces of BLAC in order that the objective may be fulfilled;
- d. Attend or appoint a representative to attend the Board meetings of the Nipomo Community Services District;
- e. Be the official BLAC representative;
- f. Conduct BLAC affairs and execute the policies established by the BLAC;
- g. Be a voting member of the Committee;
- h. Appoint sub-committees' chairpersons;
- i. Send agendas of meetings to membership, the NCSD office, and media; and
- j. Open the meeting after ascertaining a quorum is present; then, conduct the meeting through the order established in the agenda.

Section 2: Past Chairperson

Assist the Chairperson on an as-needed basis.

Section 3: Vice-Chairperson

- a. In the absence or disability of the Chairperson, the Vice-Chairperson will perform the duties of the Chairperson; and
- b. Carry out such duties as may be assigned by the Chairperson.

Section 4: Secretary

- a. Keep an accurate written record of the proceedings of all meetings of the BLAC;
- b. Keep a bound book containing all minutes with a copy of unapproved and approved minutes;

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- c. Be prepared to refer to written minutes of previous meetings;
- d. Prepare a list for the Chairperson of all unfinished business;
- e. Keep a current list of all BLAC members and their attendance, and report excessive absences;
- f. Keep a current copy of the BLAC Bylaws to refer to at all BLAC meetings;
- g. Call the meeting to order if both the Chairperson and Vice Chairperson are absent;
- h. Conduct all necessary BLAC correspondence authorized by the Chairperson and/or the Advisory Committee; and
- i. Perform such other duties as may be delegated by the Chairperson.

Section 5: Upon the expiration of the term of office or in the case of resignation, each officer will turn over to the Chairperson within ten (10) days of resignation or removal, all records, minutes, books and other materials pertaining to the organization or office.

ARTICLE VII – MEETINGS

Section 1: Meetings:

- a. Committee meetings should be held at least once a year on the date and time as determined by the Committee. Otherwise, Committee meetings shall be called by the Chairperson or four Committee members, upon written request or verbal notice sent at least three (3) days prior to the meeting.
- b. Committee meeting notices must be posted at the NCSD Office consistent with the Ralph M. Brown Act, and may be made also in the Blacklake Community Room, Nipomo Library and the local media. Committee meetings are held for the purpose of gathering public input, speaking on issues and projects, and exchanging information.
- c. Committee meetings are held to conduct the business of the BLAC.
- d. The privilege of making motions and voting will be limited to the Committee members that are present at the meeting.
- e. The presence in person of one half (1/2) plus one of the BLAC members is necessary to constitute a quorum.
- f. All meetings of the BLAC and its sub-committees shall be open to the public in a location inside the District boundaries of the NCSD that is open to the public.
- g. All motions are to be submitted in writing to the Chairperson. The motion must identify the presenter and the second. These motions will become part of the permanent record of the Committee.
- h. The Chairperson shall conduct all meetings in an orderly manner.

ARTICLE VIII – SUB-COMMITTEES

Section 1: There may be sub-committees created by the BLAC as required to carry out the work of the BLAC. No sub-committee shall make policy for the BLAC but shall present recommendations, motions and outcomes from the last sub-committee meeting at the next regular BLAC meeting, for revision and approval.

Section 2: The BLAC may create ad hoc sub-committees on an as-needed basis. The duties of an ad hoc sub-committee shall be outlined at the time of appointment. An ad hoc sub-committee may meet on an irregular basis, but shall report to the Committee at the completion of their task. An ad hoc sub-committee shall be dissolved when its final report has been made to the Advisory Committee. Any BLAC member or Blacklake Village community member may be appointed to chair such a sub-committee.

Section 3: Each sub-committee will have a chairperson appointed by the BLAC Chairperson. The sub-committee chair will present the plans of work to the BLAC for approval. Work will be undertaken with the approval of the BLAC. After a committee is formed and prior to beginning work, the sub-committee chairperson will provide the BLAC with a written mission statement, plan of action and goals, as well as a list of committee members. The BLAC will review and may approve the plan. All sub-committee updates must be brought to the BLAC for approval.

Section 4: Example of ad hoc sub-committees:

- a. Bylaws
- b. Rate Analysis
- c. Maintenance Assessment

Section 5: Items common to all standing sub-committees follow:

- a. The chairperson of each standing sub-committee shall select a vice chair, subject to a majority vote by the sub-committee members.
- b. The committee shall meet on a monthly basis.
- c. Standing sub-committees will publish their agendas at least 72 hours prior to their meetings. Draft minutes of all meetings shall be submitted to the BLAC within ten (10) days following such meetings.
- d. Every agenda shall provide for a period of public comments on matters within the sub-committee's scope of interest but which are not on the agenda. Public comment shall be limited at the sub-committee chair's discretion, provided time limits are applied equally to all persons desiring to speak.
- e. Sub-committee members may vote on motions only if they have attended the last 3 out of 5 sub-committee meetings or have attended all sub-committee meetings since reformulated (usually after the new BLMA Board is seated).
- f. The minutes of the meeting shall reflect the sub-committee members' attendance as well as a record of all motions.
- g. In the event of conflicts of interest, the BLAC Bylaws shall apply to all sub-committees and their members.

h. Brown Act Compliance, as stated in the BLAC Bylaws, shall apply to all standing sub-committees and their members.

ARTICLE IX – BYLAWS AMENDMENTS

Section 1: The Bylaws of the BLAC shall not be in conflict any Federal, State or County law. Any portion of these Bylaws found in conflict shall be nullified.

Section 2: These Bylaws may be amended, appealed, or altered in whole or in part by 2/3 majority of the BLAC members subject to adequate notice of all BLAC members and ratification by the NCSD Board.

Section 3: Bylaws amendments shall be submitted to the NCSD and the public for a 4-week review prior to the BLAC voting on such proposed amendments.

ARTICLE X – PARLIAMENTARY AUTHORITY

The Chairperson shall conduct all meetings in an orderly manner.

BYLAWS APPROVAL

These Bylaws have been duly approved by the _____ at a meeting on
(date) _____ at Nipomo, CA, and will become effective when ratified by the Nipomo
Community Services District Board.

- Chairperson _____ Date _____
- Recording Secretary _____ Date _____

Approved for form:

- District Legal Counsel _____ Date _____

Approved by the Nipomo Community Services District Board:

- President _____ Date _____

RESOLUTION NO. 96-592

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT ESTABLISHING
BLACK LAKE AREA OVERSIGHT ADVISORY COMMITTEE**

WHEREAS, the Black Lake development was annexed into the Nipomo Community Services District ("District") in 1992; and

WHEREAS, at the time of annexation, the development had stand alone Street Lighting District, sewage collection, sewage treatment, sewage disposal and water production and distribution systems; and

WHEREAS, the Black lake area has distinct issues which merit the District's Board and staff seeking and obtaining input from representatives of the Black Lake community prior to making decisions which will impact the community; and

WHEREAS, this can be accomplished through establishment of a Black Lake Oversight Advisory Committee.

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

1. There is hereby established a Black Lake Area oversight Advisory Committee ("Committee"). The Committee is an advisory committee to the District's Board of Directors.

2. The purpose of the Committee is to allow the District to obtain input from representatives of the residents and property owners of the Black lake development before action by the District on matters of concern to that area. The Committee shall be responsible for reviewing proposed additions to, changes in, extensions or deletion of services; changes in rate or charges; and other matters of concern to Black lake residents and property owners; and conveying opinions and recommendations to the District's Board and staff.

3. The Advisory Committee shall be a committee of the whole of the Board of Directors of the Black Lake Management Association ("BLMA"). Each member of the BLMA may appoint an alternate to sit as a voting member of the Committee in his or her absence. The District Board of Directors shall approve the appointment of alternates. Committee member terms shall be concurrent with the member's term on the BLMA Board. The Advisory Committee shall provide District with the names of the Advisory Committee members and update the membership list as needed.

4. District staff will provide staff assistance to the Committee and attend meetings of the Committee when requested by the Committee. The District Manager will be the principal staff liaison to the Committee. The Committee Chairman shall be the principal liaison to the District.

5. The District will provide written notice to the Committee prior to proposed staff or District Board action or policy or administrative decision that relates to Committee purposes identified in paragraph 2 of this Resolution. Such notice will be given sufficiently in advance of action by the District Board or staff so as to allow the Committee to meet and review the matter and make recommendations to the District staff and Board. With notice of proposed action, staff will also provide data and reports prepared to support the proposed action. Recommendations shall be made to District by roll call vote at the Committee Meeting.

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6. In the case of proposed action by staff, not related to a matter previously considered by the Committee, and which would not disrupt the routine operation of the District, staff will refer the matter to the Committee as provided in Paragraph 5. If the Committee disagrees with the staff's proposed action, the matter will be placed on the District Board's agenda, with both the Committee's and staff's recommendations, before action is taken.

7. In the event of the need for emergency action, the staff and District Board need not follow the formal procedures for referral to the Committee, but will use their best efforts to consult with the Committee or a designated subcommittee prior to emergency action.

8. Upon request of the Committee, the District shall place issues of concern involving the Black Lake community on the District Board's agenda for consideration that pertain to District powers.

9. Meetings of the Committee shall be open to the public to the extent required by the Brown Act, Government Code Sections 54950 et seq.

10. District administrative expenses related to staffing the Advisory Committee will be budgeted to a Black Lake Advisory Committee account.

11. The initial set of bylaws and all adopted revisions, deletions, and changes shall be subject to approval of the District Board of Directors. The Committee will meet and prepare bylaws establishing meeting dates, conduct of meetings, voting and election of officers consistent with this resolution.

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

AYES: Directors Blair, Fairbanks, Mendoza, Simon and Small

NOES: None

ABSENT: None

the foregoing resolution was passed and adopted this 18 th day of September 1996.

Steven S. Small,
President of the Board of Directors

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Board Secretary

Jon S. Seitz
General Counsel