

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: JUNE 5, 2009



AUTHORIZE RECORDATION OF TAX LIENS FOR PROPERTIES IN ARREARS IN
PAYMENT OF SOLID WASTE FEES [CONDUCT PROTEST HEARING AND
CONFIRM OR AMEND GENERAL MANAGER'S REPORT]

ITEM

Public Hearing - Unpaid solid waste collection charges [RECOMMEND ADOPTION].

BACKGROUND

On August 10, 2005, the District adopted Ordinance No. 2005-104. This Ordinance made trash collection within the District mandatory. In addition, the Ordinance incorporated the procedures of Section 61621.2 of the Government Code (now Government Code Section 61115(3)(b) for the collection of delinquent solid waste charges on the tax rolls. Section 7.09.020(A) of the District Code provides:

Upon receipt of the information identified in Section 7.09.010 of this chapter, the District will implement the collection procedures identified in Section 61621.2 of the Government Code for accounts that have accrued a delinquency during the last twelve months.

District Staff has coordinated with South County Sanitary to follow the required procedures.

1. On February 9, 2009, South County Sanitary sent certified letters to each delinquent account giving a 45-day notice to pay pursuant to District Code Section 7.09.010. The letter also stated that non-payment may result in the Nipomo Community Services District placing a lien on owner's property and collection the amount owing with general taxes.
2. On May 14, 2009, South County Sanitary provided the District with the listing of delinquent accounts.
3. On May 19, 2009, Nipomo Community Services District sent a Notice of Public Hearing to each delinquent property owner.
4. On May 20, 2009 and May 27, 2009, the Notice of Public Hearing was published in the Times Press Recorder.
5. Property Owners that have paid since May 19, 2008, have been removed from the delinquency listing.

Now is the time and place for the public hearing for the Board to confirm the report for collection of the charges on the 2009-2010 tax roll and to give opportunity for filing objections and for the presentation of testimony or other evidence concerning said report.

RECOMMENDATION

Adopt Resolution 2009-solid waste including Exhibit "A"

ATTACHMENTS

Resolution 2009-solid waste

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2009-SOLID WASTE**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE NIPOMO COMMUNITY SERVICES DISTRICT
CONFIRMING REPORT OF DISTRICT GENERAL MANAGER FOR
UNPAID SOLID WASTE COLLECTION CHARGES**

WHEREAS, the Nipomo Community Services District ("District") makes the following findings of fact:

A. The District is duly authorized to provide its residents with solid waste collection services ("Solid Waste Collection Services").

B. On August 10, 2005, the District duly adopted Ordinance No. 2005-104 that incorporates the procedures of Section 61621.2 of the Government Code (now Government Code §61115(3)(b)) for the collection of delinquent solid waste charges on the tax rolls. Section 7.09.020 (A) of the District Code provides:

A. Upon receipt of the information identified in Section 7.09.010 of this chapter, the District will implement the collection procedures identified in Section 61621.2 of the Government Code for accounts that have accrued a delinquency during the last twelve months.

C. The Franchisee who provides Solid Waste Collection Services, has provided notice to delinquent service accounts pursuant to District Code §7.09.010.

D. The District General Manager has prepared and filed a report ("Report") that describes each affected parcel of real property and the amount of charges and delinquencies for each affected parcel for the year. Said Report is attached hereto as Exhibit "A" and incorporated herein by this reference.

E. The District General Manager, pursuant to Section 6066 of the Government Code, has published notice of the filing of the Report and has caused notice in writing to be mailed to the owner of each affected parcel as shown on the last equalized Assessment Roll available on the date the Report was prepared, at the address shown on the Assessment Roll or as known to the General Manager.

F. On June 10, 2009, a public hearing was held before the District Board at which time all interested persons were given the opportunity to object or protest the Report, or any portions thereof.

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2009-SOLID WASTE

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE NIPOMO COMMUNITY SERVICES DISTRICT
CONFIRMING REPORT OF DISTRICT GENERAL MANAGER FOR
UNPAID SOLID WASTE COLLECTION CHARGES

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

1. Each of the above findings is true and correct and incorporated herein by this reference.
2. That the Report (Exhibit "A"), as submitted and revised, by the Board of Directors, is hereby confirmed and adopted.
3. The charges as described in the Report, as revised, shall constitute a lien on the parcel of real property for which said charges are delinquent and unpaid.
4. On or before August 7, 2009, the District General Manager is authorized to file with the County Auditor a copy of this Resolution and Report showing the unpaid charges as required by Section 61115 (3) (b) of the Government Code.
5. Pursuant to Government Code §61115 (3) (b), the County Auditor shall enter the amount of charges and penalties against each of the affected parcel of real property as they appear on the current Assessment Roll. The County Tax Collector shall include the amount of the charges on the tax bills for each affected parcel of real property and collect the charges in the same manner as property taxes.

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

AYES:
NOES:
ABSENT:
CONFLICT:

the foregoing Resolution is hereby adopted this 10th day of June, 2009.

James Harrison, President
Nipomo Community Services District
Board of Directors

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson, Secretary
Board of Directors

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

TO: BOARD OF DIRECTORS
 FROM: BRUCE BUEL *BB*
 DATE: JUNE 5, 2009

**AGENDA ITEM
 E-5
 JUNE 10, 2009**

AUTHORIZE COLLECTION OF FY2009-10 BLACK LAKE STREET LIGHT DISTRICT
 ASSESSMENTS [CONDUCT PROTEST HEARING AND CONFIRM OR AMEND
 GENERAL MANAGER'S REPORT]

ITEM

Public Hearing and adoption of Black Lake Street Lighting Charges for 2009-10

BACKGROUND

NCSD provides street lighting to Black Lake Village. In order to maintain the street lighting, an annual charge is assessed on each parcel for the service rendered. The existing Blacklake street lighting assessment is exempt from the compliance requirements of Prop. 218. Any future increases in the assessment would need voter approval of the property owners. The proposed annual charge of \$34.00 will remain the same as last year. It should be noted that the County of SLO adds \$2.00 per parcel handling fee, making the total annual fee billed to each parcel \$36.00. Below is a history of the charge per parcel:

History of per parcel assessment:

<u>Year</u>	<u>Charge</u>	<u>County Fee</u>	<u>Total</u>
1992-93	\$48.00	\$2.00	\$50.00
1993-94	\$50.00	\$2.00	\$52.00
1994-95	\$48.00	\$2.00	\$50.00
1995-96	\$40.00	\$2.00	\$42.00
1996-97	\$34.00	\$2.00	\$36.00
1997-98	\$34.00	\$2.00	\$36.00
1998-99	\$34.00	\$2.00	\$36.00
1999-00	\$34.00	\$2.00	\$36.00
2000-01	\$34.00	\$2.00	\$36.00
2001-02	\$34.00	\$2.00	\$36.00
2002-03	\$34.00	\$2.00	\$36.00
2003-04	\$34.00	\$2.00	\$36.00
2004-05	\$34.00	\$2.00	\$36.00
2005-06	\$34.00	\$2.00	\$36.00
2006-07	\$34.00	\$2.00	\$36.00
2007-08	\$34.00	\$2.00	\$36.00
2008-09	\$34.00	\$2.00	\$36.00

The Street Lighting Fund budget for 2009-10 is as follows:

REVENUES		
Street lighting charges		\$18,904
EXPENDITURES		
Insurance	\$ 500	
Public & Legal Notice	100	
Electricity	<u>21,500</u>	
Total expenditures		<u>(22,100)</u>
Revenues less Expenditures		(3,196)
Interest earnings		700
Net deficit from operations		<u>(2,496)</u>

Item E-5
June 10, 2009

Estimated cash balance 7/1/09	\$39,000
Net deficit from operations	<u>(2,496)</u>
Estimated cash balance 6/30/10	<u>\$36,504</u>

Exhibit A to the attached proposed Resolution provides a listing of Assessor Parcel Numbers with the proposed 2009-10 street lighting charges.

The Notice of Public Hearing was published in the Santa Maria Times on May 27, 2009, in accordance with Section 6066 of the Government Code.

Now is the time and place for the public hearing for the Board to confirm the report for collection of the charges on the 2009-10 tax roll and to give opportunity for filing objections and for the presentation of testimony or other evidence concerning said report. The attached Resolution is presented for the Board's review, approval and adoption.

RECOMMENDATION

Approval of Resolution No. 2009-BL establishing Black Lake Street Lighting Charges

ATTACHMENT

Resolution 2009-BL

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2009-BL**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
PROVIDING FOR THE COLLECTION OF STREET LIGHT CHARGES ON
THE SAN LUIS OBISPO COUNTY TAX ROLLS FOR MAINTENANCE AND
OPERATION OF EXISTING PUBLIC STREET LIGHTS IN THE
BLACK LAKE VILLAGE**

WHEREAS, on October 15, 1992, LAFCO approved Resolution No. 92-19 "A RESOLUTION MAKING DETERMINATION APPROVING THE REORGANIZATION INVOLVING DETACHMENT OF TERRITORY FROM COUNTY SERVICE AREA NO. 1-G AND ANNEXATION NO. 7 TO THE NIPOMO COMMUNITY SERVICES DISTRICT (BLACK LAKE GOLF AND COUNTRY CLUB), and

WHEREAS, Condition 3A provides that the NCSD will provide all three services currently provided by CSA No. 1-G: water, sewer, and street lighting; and

WHEREAS, Condition 3F provides that NCSD succeed to all rights, duties and obligations of CSA No. 1-G with respect to the enforcement of performance or payment of any outstanding contracts and obligations of CSA No. 1-G; and

WHEREAS, Condition 3H authorizes the NCSD to continue to levy, fix and collect any special, extraordinary or additional taxes, assessments, service charges and rates which were levied, fixed and/or collected by CSA No. 1-G; and

WHEREAS, public notice has been given in accordance with Section 6066 of the Government Code as specified under CSA No. 1-G Assessment procedures of this public hearing concerning collection of service charges on the 2009-10 property tax bills; and

WHEREAS, written reports specifying each parcel (attached as Exhibit "A") receiving extended service and the amount of the charge for that service have been prepared and filed with the staff report; and

WHEREAS, based on the Staff Report and public testimony, the Board finds:

- A. That the proposed charges do not exceed the reasonable costs of providing the services.
- B. That the assessment district was formed pursuant to a petition signed by the owners of the Black Lake Specific Plan.
- C. The written report does not recommend an increase in the current assessment.

WHEREAS, based on the above findings, the assessments for fiscal year 2009-10 are unaffected by Proposition 218; and

WHEREAS, this is the time and place for the public hearing for the Board to confirm the reports for collection of service charges on the 2009-10 tax bills as specified in the staff reports and to give opportunity for filing objections and for presentation of testimony or other evidence concerning said report; and

WHEREAS, it is in the public interest that the owners of property in said Black Lake Development pay the cost of said service therein.

RESOLUTION 2009-b1

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
PROVIDING FOR THE COLLECTION OF STREET LIGHT CHARGES ON
THE SAN LUIS OBISPO COUNTY TAX ROLLS FOR MAINTENANCE AND
OPERATION OF EXISTING PUBLIC STREET LIGHTS IN THE
BLACK LAKE VILLAGE

PAGE TWO

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

- Section 1. That the recitals set forth are true, correct and valid.
- Section 2. The Board of Directors of NCSD fixes the street lighting charge at \$34.00 and a SLO County Administrative charge of \$2.00 for a total charge of \$36.00 per year.
- Section 3. That said service charges are directly proportionate to the benefit to each parcel from the services rendered.
- Section 4. That the charges as confirmed shall appear as separate items on the tax bill of each parcel of real property listed in said staff report, and such charges shall be collected at the same time and in the same manner as ordinary ad valorem taxes are collected, and are subject to the same penalties and the same procedures and sale in case of delinquency as provided for such taxes.
- Section 5. The Tax Collector of the San Luis Obispo County is hereby authorized to collect the street lighting charges on the property tax bill.
- Section 6. This resolution is adopted by a majority of all members of the Board of Directors of the District.

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

AYES:
NOES:
ABSENT:
ABSTAIN:

the foregoing resolution is hereby adopted this 10th day of June, 2009.

James Harrison, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary of the Board

Jon S. Seitz
General Counsel

EXHIBIT "A"
BLACK LAKE STREET LIGHTING ANNUAL ASSESSMENT 2009-2010

	APN	ASSESSMENT
1	091243001	34.00
2	091243002	34.00
3	091243003	34.00
4	091243004	34.00
5	091243005	34.00
6	091243006	34.00
7	091243007	34.00
8	091243008	34.00
9	091243009	34.00
10	091243010	34.00
11	091244001	34.00
12	091244002	34.00
13	091244003	34.00
14	091244004	34.00
15	091244005	34.00
16	091244006	34.00
17	091244007	34.00
18	091244008	34.00
19	091244009	34.00
20	091244010	34.00
21	091410001	34.00
22	091410002	34.00
23	091410003	34.00
24	091410004	34.00
25	091410005	34.00
26	091410006	34.00
27	091410007	34.00
28	091410008	34.00
29	091410009	34.00
30	091410010	34.00
31	091410011	34.00
32	091410012	34.00
33	091410013	34.00
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36	091410016	34.00
37	091410017	34.00
38	091410018	34.00
39	091410019	34.00
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41	091410021	34.00
42	091410022	34.00
43	091410023	34.00
44	091410024	34.00
45	091410025	34.00
46	091410026	34.00
47	091410027	34.00
48	091410028	34.00
49	091410029	34.00
50	091410030	34.00

	APN	ASSESSMENT
51	091410031	34.00
52	091410032	34.00
53	091410033	34.00
54	091410034	34.00
55	091410035	34.00
56	091410036	34.00
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79	091412002	34.00
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82	091412005	34.00
83	091412006	34.00
84	091412007	34.00
85	091412008	34.00
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87	091412010	34.00
88	091412011	34.00
89	091412012	34.00
90	091412013	34.00
91	091412014	34.00
92	091412015	34.00
93	091412016	34.00
94	091412017	34.00
95	091412018	34.00
96	091412019	34.00
97	091412020	34.00
98	091412021	34.00
99	091413001	34.00
100	091413002	34.00

	APN	ASSESSMENT
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102	091413004	34.00
103	091413005	34.00
104	091413006	34.00
105	091413007	34.00
106	091413008	34.00
107	091413009	34.00
108	091413010	34.00
109	091413011	34.00
110	091413012	34.00
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146	091414002	34.00
147	091414003	34.00
148	091414004	34.00
149	091414005	34.00
150	091414006	34.00

EXHIBIT "A"
BLACK LAKE STREET LIGHTING ANNUAL ASSESSMENT 2009-2010

	APN	ASSESSMENT
151	091414007	34.00
152	091414008	34.00
153	091414009	34.00
154	091414010	34.00
155	091414011	34.00
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164	091414020	34.00
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191	091415018	34.00
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197	091415024	34.00
198	091415025	34.00
199	091415026	34.00
200	091415027	34.00

	APN	ASSESSMENT
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203	091415030	34.00
204	091415031	34.00
205	091415032	34.00
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242	091416036	34.00
243	091444001	34.00
244	091444005	34.00
245	091444006	34.00
246	091444011	34.00
247	091444012	34.00
248	091444013	34.00
249	091444015	34.00
250	091444016	34.00

	APN	ASSESSMENT
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255	091444023	34.00
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296	091444068	34.00
297	091444008	34.00
298	091444007	34.00
299	091444004	34.00
300	091444003	34.00

EXHIBIT "A"
BLACK LAKE STREET LIGHTING ANNUAL ASSESSMENT 2009-2010

	APN	ASSESSMENT
301	091444002	34.00
302	091444037	34.00
303	091444018	34.00
304	091444019	34.00
305	091419001	34.00
306	091419002	34.00
307	091419003	34.00
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314	091419010	34.00
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318	091419014	34.00
319	091419015	34.00
320	091419016	34.00
321	091419017	34.00
322	091419018	34.00
323	091419060	34.00
324	091419020	34.00
325	091419021	34.00
326	091419022	34.00
327	091419023	34.00
328	091419028	34.00
329	091419029	34.00
330	091419030	34.00
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339	091419039	34.00
340	091419040	34.00
341	091419041	34.00
342	091419042	34.00
343	091419043	34.00
344	091419055	34.00
345	091419056	34.00
346	091419057	34.00
347	091419058	34.00
348	091440001	34.00
349	091440002	34.00
350	091440003	34.00

	APN	ASSESSMENT
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352	091440005	34.00
353	091440006	34.00
354	091440007	34.00
355	091440008	34.00
356	091440009	34.00
357	091440010	34.00
358	091440011	34.00
359	091440012	34.00
360	091440013	34.00
361	091441001	34.00
362	091441002	34.00
363	091441003	34.00
364	091441004	34.00
365	091441005	34.00
366	091441006	34.00
367	091441007	34.00
368	091441008	34.00
369	091441009	34.00
370	091441010	34.00
371	091441011	34.00
372	092441027	34.00
373	091441028	34.00
374	091441014	34.00
375	091441015	34.00
376	091441016	34.00
377	091441017	34.00
378	091441018	34.00
379	091441019	34.00
380	091441020	34.00
381	091441029	34.00
382	091441022	34.00
383	091441023	34.00
384	091441024	34.00
385	091444009	34.00
386	091440014	34.00
387	091442001	34.00
388	091442002	34.00
389	091442003	34.00
390	091442004	34.00
391	091442005	34.00
392	091442006	34.00
393	091442007	34.00
394	091442008	34.00
395	091442009	34.00
396	091442010	34.00
397	091442011	34.00
398	091442012	34.00
399	091442013	34.00
400	091442014	34.00

	APN	ASSESSMENT
401	091442015	34.00
402	091442016	34.00
403	091442017	34.00
404	091442018	34.00
405	091442019	34.00
406	091442020	34.00
407	091442021	34.00
408	091442022	34.00
409	091442023	34.00
410	091442024	34.00
411	091442025	34.00
412	091442026	34.00
413	091442027	34.00
414	091443001	34.00
415	091443002	34.00
416	091443003	34.00
417	091443004	34.00
418	091443005	34.00
419	091443006	34.00
420	091443007	34.00
421	091443008	34.00
422	091443009	34.00
423	091443010	34.00
424	091443011	34.00
425	091443012	34.00
426	091443013	34.00
427	091443014	34.00
428	091443015	34.00
429	091443016	34.00
430	091244011	34.00
431	091244012	34.00
432	091244013	34.00
433	091244014	34.00
434	091244015	34.00
435	091244016	34.00
436	091244017	34.00
437	091244018	34.00
438	091244019	34.00
439	091243013	34.00
440	091243014	34.00
441	091243015	34.00
442	091243016	34.00
443	091243017	34.00
444	091243018	34.00
445	091243019	34.00
446	091243020	34.00
447	091243021	34.00
448	091243022	34.00
449	091243023	34.00
450	091243024	34.00

EXHIBIT "A"
BLACK LAKE STREET LIGHTING ANNUAL ASSESSMENT 2009-2010

	APN	ASSESSMENT
451	091243025	34.00
452	091243026	34.00
453	091243027	34.00
454	091243028	34.00
456	091243030	34.00
457	091243031	34.00
458	091243032	34.00
459	091243033	34.00
460	091243034	34.00
461	091243035	34.00
462	091243036	34.00
463	091243037	34.00
464	091243038	34.00
465	091243039	34.00
466	091243040	34.00
467	091243041	34.00
468	091243042	34.00
469	091243043	34.00
470	091244022	34.00
471	091244023	34.00
472	091244024	34.00
473	091244025	34.00
474	091244026	34.00
475	091244027	34.00
476	091244028	34.00
477	091244029	34.00
478	091244030	34.00
479	091244031	34.00
480	091445001	34.00
481	091445002	34.00
482	091445003	34.00
483	091445004	34.00
484	091445005	34.00
485	091445006	34.00
486	091445007	34.00
487	091445008	34.00
488	091445009	34.00
489	091445010	34.00
490	091445011	34.00
491	091445012	34.00
492	091445013	34.00
493	091445014	34.00
494	091445015	34.00
495	091445016	34.00
496	091445017	34.00
497	091445018	34.00
498	091445019	34.00
499	091445020	34.00
500	091445021	34.00

	APN	ASSESSMENT
501	091445022	34.00
502	091445023	34.00
503	091445024	34.00
504	091445025	34.00
506	091445027	34.00
507	091445028	34.00
508	091445029	34.00
509	091445030	34.00
510	091445031	34.00
511	091446001	34.00
512	091446002	34.00
513	091446003	34.00
514	091446004	34.00
515	091446005	34.00
516	091446006	34.00
517	091446007	34.00
518	091446008	34.00
519	091446009	34.00
520	091446010	34.00
521	091446011	34.00
522	091446012	34.00
523	091446013	34.00
524	091446014	34.00
525	091446015	34.00
526	091446016	34.00
527	091446017	34.00
528	091446018	34.00
529	091446019	34.00
530	091446020	34.00
531	091446021	34.00
532	091446022	34.00
533	091446023	34.00
534	091446024	34.00
535	091446025	34.00
536	091446026	34.00
537	091246003	34.00
538	091246004	34.00
539	091246005	34.00
540	091246006	34.00
541	091246007	34.00
542	091246008	34.00
543	091246009	34.00
544	091246010	34.00
545	091246011	34.00
546	091246012	34.00
547	091246013	34.00
548	091246014	34.00
549	091246015	34.00
550	091246023	34.00

	APN	ASSESSMENT
551	091246017	34.00
552	091246018	34.00
553	091246019	34.00
554	091246020	34.00
555	091246001	34.00
556	091246026	34.00

TOTAL	\$18,904.00
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TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: JUNE 5, 2009

AGENDA ITEM
E-6
JUNE 10, 2009

AUTHORIZE COLLECTION OF FY2009-10 STREET LANDSCAPE MAINTENANCE DISTRICT ASSESSMENTS [CONDUCT PROTEST HEARING AND CONFIRM OR AMEND GENERAL MANAGER'S REPORT]

ITEM

Public Hearing and ordering levy and collection of assessments for the Street Landscape Maintenance District No.1 for fiscal year 2009-2010.

BACKGROUND

On April 8, 2009, the Board of Directors adopted Resolution 2009-1132 entitled:

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 2009-2010 PURSUANT TO THE PROVISIONS OF PART 2 OF THE DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

and thereby initiated the process of annual levy assessment for Street Landscape Maintenance District Number 1. Peter Sevcik, District Engineer, was directed to prepare the annual levy report. Pursuant to Proposition 218 and the Petition Requesting Formation of the Landscape Maintenance District, the annual levy may be increased by a percentage equal to the Consumer Price Index (CPI). While the CPI defines the maximum rate for the District may increase the levy each year, the actual amount to be assessed is based on the annual budget and may be less than the maximum rate. Property owners within the assessment district must approve any proposed assessment that exceeds the adjusted maximum rate based on the CPI.

The Board of Directors approved two resolutions on May 13, 2009 which provided for 1) the adoption of the Engineer's Report, and 2) declaration of intention to levy the annual assessment. Today's public hearing and proposed action - approval of a resolution ordering levy and collection of the assessment - completes the process of annual levy assessment.

Since inception, the annual assessments, per parcel, have been as follows:

Fiscal Year 2003-2004(first year of assessment)	\$345.00
Fiscal Year 2004-2005 (CPI increase)	\$346.96
Fiscal Year 2005-2006 (CPI increase)	\$354.94
Fiscal Year 2006-2007 (CPI Increase)	\$365.34
Fiscal Year 2007-2008 (no increase)	\$365.34
Fiscal Year 2008-2009 (CPI Increase)	\$387.74
Fiscal Year 2009-2010	\$301.78

RECOMMENDATION

Approval of Resolution No. 2009-LMD Approval.

ATTACHMENT

Resolution 2009-LMD Approval

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2009-lmd approval**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY
SERVICES DISTRICT ORDERING THE LEVY AND COLLECTION OF
ASSESSMENTS FOR THE NIPOMO COMMUNITY SERVICES DISTRICT STREET
LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2009-2010**

WHEREAS, the Board of Directors of the Nipomo Community Services District ("NCSD") has by previous Resolutions initiated proceedings, declared its intention to levy assessments, and approved the Engineer's Annual Levy Report (hereinafter referred to as the "Report") that describes the assessments against parcels of land within the Nipomo Community Services District Street Landscape Maintenance Assessment District No. 1 (hereafter referred to as "Assessment District No. 1") for the Fiscal Year commencing July 1, 2008, and ending June 30, 2009, pursuant to the provisions of the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22500* (hereafter referred to as the "Act") to pay the costs and expenses of operating, maintaining, and servicing the improvements located within Assessment District No. 1; and

WHEREAS, the Engineer's Report has been prepared and filed with the NCSD Secretary and General Manager, and the District General Manager has presented to the NCSD Board of Directors a Report in connection with the proposed levy and collection of assessments upon eligible parcels of land within the Assessment District No. 1 and the Board did by previous Resolution approve such Report; and

WHEREAS, the improvements within Street Landscape Maintenance Assessment District No. 1 include the maintenance and operation of and the furnishing of services and materials for landscaping which include trees, shrubs, grasses and other ornamental vegetation, and appurtenant facilities, including irrigations systems (hereinafter referred to as "Improvements") within the Assessment District No. 1; and

WHEREAS, the NCSD Board of Directors desires to levy and collect assessments against parcels of land within the Assessment District No. 1 for the Fiscal Year commencing July 1, 2009, and ending June 30, 2010, to pay the costs and expenses of operating, maintaining, and servicing the Improvements; and

WHEREAS, the NCSD Board of Directors and its legal counsel have reviewed Proposition 218 and found that these assessments comply with applicable provisions of the California State Constitution; and

WHEREAS, pursuant to Section 22646 of the Act and Section 6061 of the Government Code the NCSD has given notice of the time and place of the public hearing for the levy and collection of assessments against the parcels of land within Assessment District No. 1 for fiscal year commencing July 1, 2009, and ending June 30, 2010; and

RESOLUTION NO. 2009-lmd approval

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE NIPOMO COMMUNITY SERVICES DISTRICT STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2009-2010

WHEREAS, based upon the review, and amendments as applicable, to the Report and the Staff Report and all oral and written statements, protests and communications made and filed by interested persons regarding these matters, the NCSD Board of Directors finds and determines that:

- A. The land within the Assessment District No. 1 will receive special benefit by the operation, maintenance, and servicing of the Improvements located within the boundaries of Assessment District No. 1; and
- B. The Assessment District No. 1 includes all of the lands so benefited; and
- C. The net amount to be assessed upon the lands within the Assessment District No. 1 in accordance with the Report for the Fiscal Year commencing July 1, 2009 and ending June 30, 2010 is apportioned by a formula and method established by the Petition for Formation of Assessment District No. 1, which fairly distributes the net amount among all eligible parcels in proportion to the estimated benefits to be received by each parcel from the Improvements and services.
- D. The Petition for Formation provides that the annual assessment for each fiscal year shall be increased in an amount necessary to reflect the increase in the costs of operating and maintaining the Improvements due to inflation and that the levy of assessments do not exceed the amounts authorized in the Petition for Formation of Landscape Maintenance District No. 1.

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

Section 1. The Report and assessments as presented to the NCSD Board of Directors and on file in the Office of the General Manager are hereby confirmed as filed. (Exhibit "A")

Section 2. The maintenance, operation, and servicing of the Improvements and appurtenant facilities, in accordance with the Act are hereby ordered and approved.

Section 3. The County Auditor of the County of San Luis Obispo shall enter on the County Assessment Roll opposite each eligible parcel of land the amount of levy so apportioned by the formula and method outlined in the Report, and such levies shall be collected at the same time and in the same manner as the County taxes are collected pursuant to *Chapter 4, Article 2, Section 22646* of the Act. After collection by the County, the net amount of the levy shall be paid to the Nipomo Community Services District.

RESOLUTION NO. 2009-lmd approval

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE NIPOMO COMMUNITY SERVICES DISTRICT STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2009-2010

Section 4. The General Manager or his/her designee shall deposit all money representing assessments collected by the County for Assessment District No. 1 to the credit of a fund known as the "Nipomo Community Services District Landscape and Maintenance Assessment District No. 1" and such money shall be expended only for the maintenance, operation, and servicing of the Improvements as described in above.

Section 5. The adoption of this Resolution constitutes the Assessment District No. 1 levy for the fiscal year commencing July 1, 2009, and ending June 30, 2010.

Section 6. The General Manager or his/her designee is hereby authorized and directed to file the levy with the County Auditor upon adoption of this Resolution pursuant to *Chapter 4, Article 1, Section 22641*, of the Act.

Section 7. The above Recitals are true and correct and incorporated herein by reference.

Section 8. The NCSD Board of Directors and such employees of the NCSD as are appropriate are authorized to execute such other documents and take such further actions as shall be consistent with the adoption consistent with this Resolution.

PASSED AND ADOPTED by the Board of Directors of the Nipomo Community Services District this 10th day of June, 2009.

AYES:
NOES:
ABSENT:
ABSTAIN:

James Harrison, President
Nipomo Community Services District
Board of Directors

ATTEST:

APPROVED AS TO FORM:

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

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

NIPOMO COMMUNITY SERVICES DISTRICT
ENGINEER'S ANNUAL LEVY REPORT
STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1
FISCAL YEAR 2009-2010

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Introduction

Nipomo Community Services District ("NCSD") annually levies and collects special assessments to maintain improvements within Street Landscape Maintenance District No. 1 ("District"). The District was formed and annual assessments are established pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the "1972 Act").

This Engineer's Annual Report ("Report") describes the District and the proposed assessments for the fiscal year 2009-2010. The assessments are based on the historical and estimated future costs to maintain the improvements that provide a direct and special benefit to properties within the District.

For the purposes of this Report, the word "parcel" refers to an individual property assigned its own Assessor Parcel Number by the San Luis Obispo County Assessor's Office. The San Luis Obispo County Auditor/Controller uses Assessor Parcel Numbers and specific Fund Numbers to identify properties assessed for special district benefit assessments on the tax roll.

Effect of Proposition 218

In November 1996, California voters approved Proposition 218 that established specific requirements for the on going imposition of taxes, assessments and fees. The provisions of the Proposition are now contained in the California Constitutional Articles XIIC and XIID.

All assessments described in this Report and approved by the Board of Directors are prepared in accordance with the 1972 Act and are in compliance with the provisions of the California Constitution Article XIID.

The assessments adopted include the District's annual inflationary adjustment to the maximum assessment rate. This annual inflationary adjustment to the maximum assessment rate is provided in this Report.

Description of the District and Services

The District (formed on April 9, 2003) provides and ensures the continued maintenance, servicing, administration and operation of landscaping located within the public rights-of-way and dedicated landscape easements in Tract 2409, a 28 lot subdivision commonly known as Vista Verde Estates, located off of West Tefft across from Dana Elementary School.

NIPOMO COMMUNITY SERVICES DISTRICT
ENGINEER'S ANNUAL LEVY REPORT
STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1
FISCAL YEAR 2009-2010

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Improvements within the District include the maintenance and operation and the furnishing of services and materials for landscaping which include trees, shrubs, grasses and other ornamental vegetation, and appurtenant facilities, including irrigation systems.

Method of Apportionment

General

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance and servicing of landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

The formula used for calculating assessments of the District therefore reflect the composition of the parcels, and the improvements and services provided, to fairly apportion the costs based on the benefits to each parcel.

Benefit Analysis

The associated costs and assessments have been carefully reviewed, identified and allocated based on special benefit pursuant to the provisions of the California Constitution and 1972 Act. The improvements associated with the District have been identified as necessary, required and/or desired for the orderly development of the properties within the District to their full potential, consistent with the proposed development plans. As such, these improvements would be necessary and required of individual property owners for the development of such properties, and the ongoing operation, servicing and maintenance of these improvements would be the financial obligation of those properties. Therefore, the improvements and the annual costs of ensuring the maintenance and operation of the improvements are of direct and special benefit to the properties.

The method of apportionment (method of assessment) is based on the premise that each assessed parcel within the District receives special benefit from the improvements provided by the District. The desirability of properties is enhanced by the presence of local improvements in close proximity to those properties.

The special benefits associated with landscaped improvements are specifically:

NIPOMO COMMUNITY SERVICES DISTRICT
ENGINEER'S ANNUAL LEVY REPORT
STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1
FISCAL YEAR 2009-2010

- Enhanced desirability of properties through association with the improvements.
- Improved aesthetic appeal of properties providing a positive representation of the area.
- Enhanced adaptation of the urban environment within the natural environment from adequate green space and landscaping.
- Environmental enhancement through improved erosion resistance, dust and debris control.
- Increased sense of pride in ownership of property within the District resulting in well-maintained improvements associated with the properties.
- Reduced criminal activity and property-related crimes (especially vandalism) against properties in the District through well-maintained surroundings.

Based on the preceding special benefits, it has been determined that the improvements provided through the District and for which parcels are assessed, contribute to aesthetic value and desirability of those properties. It has further been determined that these improvements, either individually or collectively are provided for the special benefit and enhancement of properties within the District and provide no measurable general benefit to properties outside the District or to the public at large.

Assessment Methodology

The maximum annual assessment that may be levied each fiscal year includes an annual inflationary adjustment to the maximum assessment rate based on the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers in San Francisco/San Jose for February 28 of the current year over the previous year's index on the same date. Although the maximum rate for the District may increase each year, the actual amount to be assessed is based on the annual budget and may be less than the maximum rate. The property owners must approve any proposed assessment that exceeds the adjusted maximum rate before it can be imposed.

The maximum assessment that may be levied in a fiscal year is increased annually by the following formula

<p>(Prior Year's Annual Maximum Assessment x CPI) Plus Prior Year's Annual Maximum Assessment</p>	}	= Current Year's Annual Maximum Assessment
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NIPOMO COMMUNITY SERVICES DISTRICT
ENGINEER'S ANNUAL LEVY REPORT
STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1
FISCAL YEAR 2009-2010

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The percentage change used is the annual change for the preceding 12 months. The annual inflation factor applied for the fiscal year 2009-2010 is based on the percentage change from February 2009 to February 2008 and has been identified as 0.88% (annual percentage change currently available).

Fiscal Year 2009-2010 District Budget

DESCRIPTION	2009-2010 BUDGET
Contract Landscape Maintenance (1)	\$3,580
Plant attrition and normal loss	1,000
Water	3,150
Electricity	120
Reserve (2)	0
Administration	600
TOTAL COST	\$8,450
COST PER PARCEL	\$301.78

MAXIMUM ALLOWABLE ASSESSMENT PER PARCEL (APPLYING INFLATIONARY ADJUSTMENT)	
2008-2009 Maximum Assessment	(1) \$387.74
X CPI (0.88%)	(2) \$3.40

Maximum Assessment Allowable	(1) + (2) \$391.14 =====
2009-2010 Annual Assessment-Proposed	\$301.78 =====

(1) Maintenance contract to be re-bid. Cost is anticipated to increase.

(2) A reserve is used for anticipated increases in water rates and the potential for exchanging current landscaping for more drought resistant landscaping in the future and irrigation system repair/replacement. Reserve of approximately \$20,000 is available, therefore, no additional reserve is budgeted.

NIPOMO COMMUNITY SERVICES DISTRICT
ENGINEER'S ANNUAL LEVY REPORT
STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1
FISCAL YEAR 2009-2010

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Lot Number	Assessor Parcel Number	Annual Assessment
1	092-512-001	\$301.78
2	092-512-002	\$301.78
3	092-512-003	\$301.78
4	092-512-004	\$301.78
5	092-512-005	\$301.78
6	092-512-006	\$301.78
7	092-512-007	\$301.78
8	092-512-008	\$301.78
9	092-512-009	\$301.78
10	092-512-010	\$301.78
11	092-512-011	\$301.78
12	092-512-012	\$301.78
13	092-512-013	\$301.78
14	092-512-014	\$301.78
15	092-512-015	\$301.78
16	092-512-016	\$301.78
17	092-512-017	\$301.78
18	092-512-018	\$301.78
19	092-512-019	\$301.78
20	092-512-020	\$301.78
21	092-512-021	\$301.78
22	092-512-022	\$301.78
23	092-512-023	\$301.78
24	092-512-024	\$301.78
25	092-512-025	\$301.78
26	092-512-026	\$301.78
27	092-512-027	\$301.78
28	092-512-028	\$301.78
	TOTAL	\$8,449.84



Peter V. Sevcik
PETER V. SEVCIK
DISTRICT ENGINEER