

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BBU*
DATE: JULY 3, 2009

AGENDA ITEM
E-1
JULY 8, 2009

PROTEST HEARING: PARKS ZONE OF BENEFIT

ITEM

PROTEST HEARING: Receive protests and public comments relative to formation of park zone of benefit, determine sufficiency of protests, and if there is no majority protest, form zone of benefit [ADOPT RESOLUTION]

BACKGROUND

Staff mailed the attached notices to the 417 property owners and 30 tenants in the proposed zone on June 12, 2009. Staff also posted notice in six different locations within the proposed zone, published a legal advertisement in the Santa Maria Times and conducted a forum on June 25, 2009. Thus far, a total of one property owner protest has been received. No voter protests have been received. Pursuant to state law, this proceeding must be terminated if 209 or more property owner or voter protests have been submitted at the close of the protest hearing.

Attached is a draft resolution that would form the Zone of Benefit, if adopted. It should be stressed that formation of the Zone of Benefit does not enable collection of any assessment funding – a separate vote by the property owners must succeed in order for an assessment to be levied.

FISCAL IMPACT

Development of this draft did use previously budgeted staff time and legal consulting cost. In addition, postage and publication costs are estimated at \$400.

RECOMMENDATION

Staff recommends that the Board open the protest hearing, receive comments and any protests, and then close the protest hearing. Staff will then tally the protests received to determine if there has been a majority protest. If there is not a majority protest, then staff recommends that the Board adopt the attached resolution.

ATTACHMENTS

- Notices mailed to owners/tenants
- Draft Resolution

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NIPOMO COMMUNITY

BOARD MEMBERS

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LARRY VIERHEILIG, VICE PRESIDENT
ED EBY, DIRECTOR
MIKE WINN, DIRECTOR



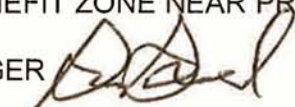
SERVICES DISTRICT

STAFF

BRUCE BUEL, GENERAL MANAGER
LISA BOGNUDA, ASSISTANT GENERAL MANAGER
JON SEITZ, GENERAL COUNSEL

148 SOUTH WILSON STREET POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326
(805) 929-1133 FAX (805) 929-1932 Website address: NCSD.CA.GOV

June 12, 2009

TO: PROPERTY OWNERS IN PRIMARY BENEFIT ZONE NEAR PROPOSED PARK
FROM: BRUCE BUEL, NCSD GENERAL MANAGER 
SUBJECT: NOTICE RE: FORMATION OF ZONE OF BENEFIT & RIGHT TO PROTEST

The Nipomo Community Services District (District) has been evaluating the feasibility of creating a 1.4 acre neighborhood park in the Olde Towne area at the northeast corner of West Tefft Street and Carrillo Street for the past several years (see attached location map). The County of San Luis Obispo has agreed to donate the land to the District and the District Board of Directors has agreed to develop the park and to pay for up to 40% of the on-going maintenance cost.

NCSD proposes to develop the park with restrooms, parking, paths, a gazebo, a pole barn, a rose garden and a community Christmas tree (see attached site plan). The NCSD Board has approved the use of existing property tax reserves to pay for the planning, design, environmental review, permits, approvals and the formation of an assessment district to pay for a portion of the operations and maintenance cost. As detailed in the "Park Assessment District Formation" report (available on NCSD's website or a hard copy upon request), NCSD estimates that development of the park could cost as much as \$922,022. The NCSD Board has agreed to spend up to \$500,000 of existing property tax reserves towards the actual cost of development. The Board proposes to pay for the development of the balance of the facilities through public facility fee grants, donations, and sponsorships by groups and service clubs.

According to the "Park Assessment District Formation" report, the expected initial annual cost to maintain the 1.4 acre park is \$20,766. The NCSD Board has agreed to pay 40% of the annual Operating and Maintenance Budget with current Property Tax revenues. The remaining 60% is proposed to be paid by property assessments within the zone of benefit (see attached depiction of Zone of Benefit that is included in the Notice). The 125 parcels in the Primary Zone would be assessed 40% of the annual cost (\$8,306 total per year or \$35.03 per benefit unit per year in assessments). The 297 parcels in the Secondary Zone would be assessed 20% of the annual cost (\$4,153 total per year or \$12.60 per benefit unit per year in assessments).

According to the SLO County Assessor's Office, you are the owner of one of the 125 parcels in the Primary Zone. If your property is a single-family residence, then your property would have a future potential annual assessment of \$35.03 assuming a subsequent vote of property owners approve such an assessment. Thus, one single-family residence has been equated to 1.0 benefit units. Each apartment in a multi-family complex would have 0.75 benefit units and commercial properties will be

Name: Primary Benefit Zone Property Owners
Subject: Notice re: Zone Formation Proposal
Date: June 12, 2009

Nipomo Community Services District
Page 2 of 2

assessed based on parcel size. A complete listing of the potential future assessment per parcel is included in the "Park Assessment District Formation" report.

This notice is intended to provide information on the District's proposal to form the proposed Zone of Benefit and to advise you of your right to object to the formation of such a Zone. You are cordially invited to attend an informational briefing at 6:30pm on Thursday, June 25th at the District Office, 148 South Wilson Street. In addition, the District Board will hold a public hearing and receive written objections at 9am on Wednesday, July 8, 2009, at the District Office, 148 South Wilson Street. A copy of the Notice regarding the formation of the Zone of Benefit is attached.

Formation of the Zone of Benefit does not enable the District to collect any assessments. A separate election is required with a majority approval process following the formation of the Zone of Benefit.

Pursuant to Section 61141 of the California Government Code, you have the right to protest the proposed formation of the Zone of Benefit. All of the protests/objections must be in writing and received prior to the close of the July 8, 2009 hearing referenced above. At the hearing, the Board of Directors shall hear and consider any protests to the formation of the Zone. If, at the conclusion of the hearing, the Board of Directors determines either that more than 50 percent of the total number of voters residing within the proposed Zone have filed written objections to the formation, or that property owners who own more than 50 percent of the assessed value of all taxable property in the proposed zone have filed written objections to the formation, then the District Board of Directors shall terminate the proceedings and the Zone of Benefit will not be formed.

Verbal protests, emailed protests, and faxed protests will not be counted in determining if either a majority voter or property owner protest exists. To be valid, a protest/objection must be in writing with original signature and received by the District Secretary before the close of the July 8, 2009 public hearing referenced above. If you are an owner and wish to object, make sure your protest includes your APN number. If you are a voter, please make sure you are registered as a voter with the San Luis Obispo County elections office. You may designate your written object as both a voter objection and a property owner objection. If your objection does not contain an APN number and the protest is otherwise valid, then your objection will only be counted as a voter objection.

Written objections regarding the formation of the proposed Zone of Benefit may be mailed to the Nipomo Community Services District, P.O. Box 326, Nipomo, CA 93444-0326. Written objections may also be personally delivered to the District Secretary at the Nipomo Community Services District office located at 148 S. Wilson Street, Nipomo, CA.

Please remember that all written objections must be received and in the hands of the District prior to the close of the July 8, 2009 public hearing referenced above.

If you should have questions, please do not hesitate to drop by the District office or contact Bruce Buel at 929-1133 or by email at bbuel@ncsd.ca.gov.



PROPOSED MILLER PARK



THOMPSON AVE

TEFFT ST

CARRILLO ST

US HIGHWAY 101

Legend

-  PRIMARY DISTRICT
-  SECONDARY DISTRICT

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**Nipomo Community Services District
 Miller Park Assessment**

Exhibit "A"

Copy of document found at www.NoNewWipTax.com



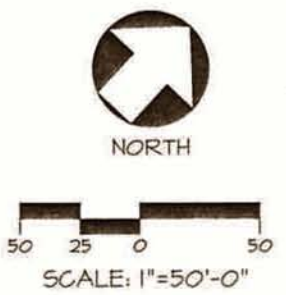
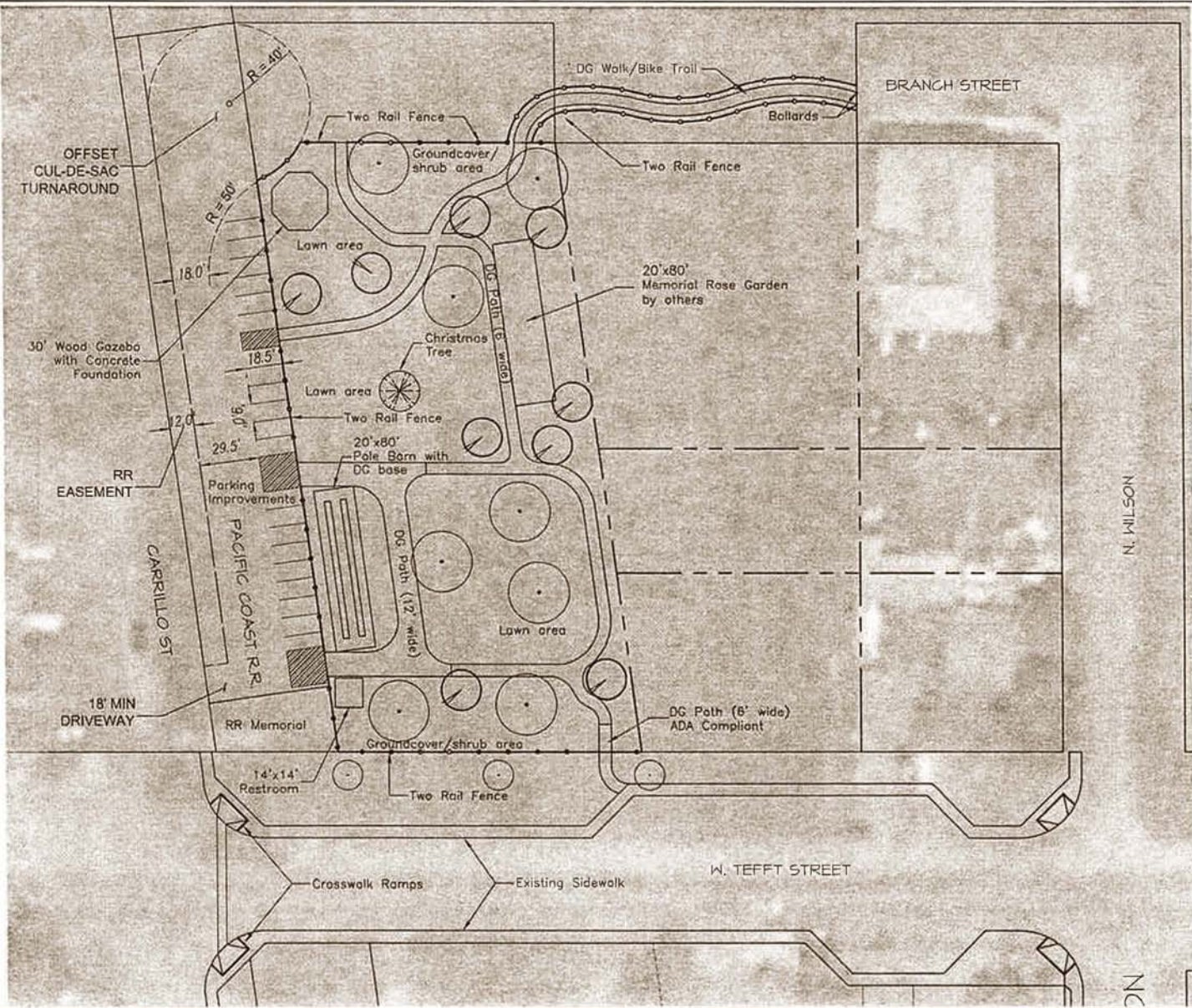
1 inch = 500 feet



JOB NO. : 0673-01
 DRAWING : BASE PLAN
 DRAWN BY: SAC/MLB
 DATE : 9-25-07
 SCALE : 1" = 50'

FIGURE 2
MILLER PARK
SITE FACILITIES
 NIPOMO COMMUNITY SERVICES DISTRICT

DATE: 09/25/07
 DRAWING: BASE PLAN
 DRAWN BY: SAC/MLB
 DATE: 9-25-07
 SCALE: 1" = 50'



NIPOMO COMMUNITY SERVICES DISTRICT

LEGAL NOTICE – PUBLIC HEARING FORMATION OF PARK ZONE OF BENEFIT

Date: Wednesday, July 12, 2009

Time: 9:00 a.m.

Place: NCSD District Office, 148 South Wilson St., Nipomo, CA

Notice is hereby given that the Board of Directors of the Nipomo Community Services District (District) will hold a public hearing pursuant to Chapter 5 of the Community Services District Law commencing with Government Code Section 61140 at 9 am on Wednesday July 8, 2009, at the District Office, 148 S. Wilson Street, Nipomo, California, to receive feedback and written objections from registered voters and property owners within the proposed Park Zone of Benefit that is designated as Park Zone of Benefit #1. The description of the boundaries of the territory to be included in the proposed Park Zone of Benefit is attached hereto as Exhibit A and incorporated by this reference. The reason for forming the Park Zone of Benefit is to establish the boundaries of a future assessment district to raise additional revenues from those residential and commercial properties that immediately surround the Park or who are within easy walking distance of the Park to partially finance the yearly operation and maintenance of the 1.4 acre neighborhood Park to be located at the northeast corner of West Tefft Street and Carrillo Street.

The County of San Luis Obispo has agreed to donate the land to the District and the District Board of Directors has agreed to develop the park and to pay for up to 40% of the on-going maintenance cost. NCSD proposes to develop the park with restrooms, parking, paths, a gazebo, a pole barn, a rose garden and a community Christmas tree that will provide a higher level of park services within the Park Zone of Benefit. The NCSD Board has approved the use of existing property tax reserves to pay for the planning, design, environmental review, permits, approvals and the formation of an assessment district to pay for a portion of the operations and maintenance cost. As detailed in the "Park Assessment District Formation" report (available on NCSD's website or a hard copy upon request), NCSD estimates that development of the park could cost as much as \$922,022. The NCSD Board has agreed to spend up to \$500,000 of existing property tax reserves towards the actual cost of development. The Board proposes to pay for the development of the balance of the facilities through public facility fee grants, donations, and sponsorships by groups and service clubs.

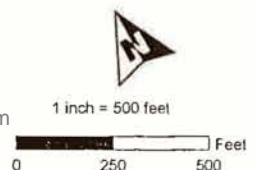


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**Nipomo Community Services District
 Miller Park Assessment**

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Exhibit 'A'



NIPOMO COMMUNITY

BOARD MEMBERS

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LARRY VIERHEILIG, VICE PRESIDENT
ED EBY, DIRECTOR
MIKE WINN, DIRECTOR



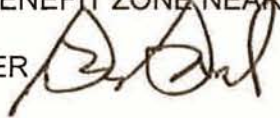
SERVICES DISTRICT

STAFF

BRUCE BUEL, GENERAL MANAGER
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JON SEITZ, GENERAL COUNSEL

148 SOUTH WILSON STREET POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326
(805) 929-1133 FAX (805) 929-1932 Website address: NCSO.CA.GOV

June 12, 2009

TO: PROPERTY OWNERS IN SECONDARY BENEFIT ZONE NEAR PROPOSED PARK
FROM: BRUCE BUEL, NCSO GENERAL MANAGER 
SUBJECT: NOTICE RE: FORMATION OF ZONE OF BENEFIT & RIGHT TO PROTEST

The Nipomo Community Services District (District) has been evaluating the feasibility of creating a 1.4 acre neighborhood park in the Olde Towne area at the northeast corner of West Tefft Street and Carrillo Street for the past several years (see attached location map). The County of San Luis Obispo has agreed to donate the land to the District and the District Board of Directors has agreed to develop the park and to pay for up to 40% of the on-going maintenance cost.

NCSO proposes to develop the park with restrooms, parking, paths, a gazebo, a pole barn, a rose garden and a community Christmas tree (see attached site plan). The NCSO Board has approved the use of existing property tax reserves to pay for the planning, design, environmental review, permits, approvals and the formation of an assessment district to pay for a portion of the operations and maintenance cost. As detailed in the "Park Assessment District Formation" report (available on NCSO's website or a hard copy upon request), NCSO estimates that development of the park could cost as much as \$922,022. The NCSO Board has agreed to spend up to \$500,000 of existing property tax reserves towards the actual cost of development. The Board proposes to pay for the development of the balance of the facilities through public facility fee grants, donations, and sponsorships by groups and service clubs.

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According to the SLO County Assessor's Office, you are the owner of one of the 297 parcels in the Secondary Zone. If your property is a single-family residence, then your property would have a future, potential, annual assessment of \$12.60, assuming a subsequent vote of property owners approve such an assessment. Thus, one single-family residence has been equated to 1.0 benefit units. Each apartment in a multi-family complex would have 0.75 benefit units and commercial properties will be assessed based on parcel size. A complete listing of the potential future assessment per parcel is included in the "Park Assessment District Formation" report.

Name: Secondary Benefit Zone Property Owners
Subject: Notice re: Zone Formation Proposal
Date: June 12, 2009

Nipomo Community Services District
Page 2 of 2

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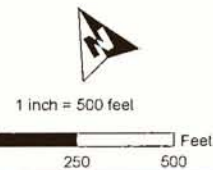
Legend

-  PRIMARY DISTRICT
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**Nipomo Community Services District
Miller Park Assessment**

Exhibit "A"

Copy of document available at www.NoNewWipTax.com



NIPOMO COMMUNITY SERVICES DISTRICT

LEGAL NOTICE – PUBLIC HEARING FORMATION OF PARK ZONE OF BENEFIT

Date: Wednesday, July 12, 2009

Time: 9:00 a.m.

Place: NCSD District Office, 148 South Wilson St., Nipomo, CA

Notice is hereby given that the Board of Directors of the Nipomo Community Services District (District) will hold a public hearing pursuant to Chapter 5 of the Community Services District Law commencing with Government Code Section 61140 at 9 am on Wednesday July 8, 2009, at the District Office, 148 S. Wilson Street, Nipomo, California, to receive feedback and written objections from registered voters and property owners within the proposed Park Zone of Benefit that is designated as Park Zone of Benefit #1. The description of the boundaries of the territory to be included in the proposed Park Zone of Benefit is attached hereto as Exhibit A and incorporated by this reference. The reason for forming the Park Zone of Benefit is to establish the boundaries of a future assessment district to raise additional revenues from those residential and commercial properties that immediately surround the Park or who are within easy walking distance of the Park to partially finance the yearly operation and maintenance of the 1.4 acre neighborhood Park to be located at the northeast corner of West Tefft Street and Carrillo Street.

The County of San Luis Obispo has agreed to donate the land to the District and the District Board of Directors has agreed to develop the park and to pay for up to 40% of the on-going maintenance cost. NCSD proposes to develop the park with restrooms, parking, paths, a gazebo, a pole barn, a rose garden and a community Christmas tree that will provide a higher level of park services within the Park Zone of Benefit. The NCSD Board has approved the use of existing property tax reserves to pay for the planning, design, environmental review, permits, approvals and the formation of an assessment district to pay for a portion of the operations and maintenance cost. As detailed in the "Park Assessment District Formation" report (available on NCSD's website or a hard copy upon request), NCSD estimates that development of the park could cost as much as \$922,022. The NCSD Board has agreed to spend up to \$500,000 of existing property tax reserves towards the actual cost of development. The Board proposes to pay for the development of the balance of the facilities through public facility fee grants, donations, and sponsorships by groups and service clubs.



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**Nipomo Community Services District
Miller Park Assessment**

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Exhibit 'A'



1 inch = 500 feet



RESOLUTION NO. 2009-XXXX

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
CONDITIONALLY APPROVING THE FORMATION OF THE NIPOMO
COMMUNITY SERVICES DISTRICT PARK ZONE OF BENEFIT**

WHEREAS, subject to Local Agency Formation Commission ("LAFCO") approval, the Nipomo Community Services District ("District") is authorized by Government Code §61100 (e) 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; and

WHEREAS, the District is considering applying to LAFCO for the authority to exercise parks powers within the District ("LAFCO Application"); and

WHEREAS, the District entered into a Memorandum of Understanding ("MOU") with the County of San Luis Obispo ("County") wherein, subject to conditions, the County will transfer to District for park purposes, at no charge, the following described real property (herein "the Park Property" or "the Park"):

Approximately one (1) acre located at the northeast corner of West Teft and Carillo Street (APN 090-141-006) along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (a portion of APN 090-151-008); and

WHEREAS, pursuant to Government Code §§61140 et seq., on May 27, 2009, the District adopted Resolution 2009-1144 to initiate proceedings to establish the Park Zone of Benefit (herein Park Zone of Benefit #1) consistent with the boundary attached hereto as Exhibit "A"; and

WHEREAS, pursuant to Government Code §§61140 and 61141, on July 8, 2009, the District held a duly noticed public hearing to consider the formation of the Park Zone of Benefit #1 and to receive public comment and to tabulate voter and property owners' written objections to the formation of the Park Zone of Benefit #1.

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

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2009-XXXX

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
CONDITIONALLY APPROVING THE FORMATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT PARK
ZONE OF BENEFIT

1. Written objections have not been filed by 50% or more of those property owners who own 50% or more of the assessed value of all taxable property within the proposed Park Zone of Benefit #1.
2. Written objections have not been filed by 50% or more of the voters within the proposed Park Zone of Benefit #1.
3. Subject to LAFCO authorization for the District to operate parks within the District boundaries and the formation of an assessment district pursuant to Article XIII(D) of the California Constitution and applicable law, the Nipomo Community Services District Park Zone of Benefit #1 as depicted on Exhibit "A" is hereby approved and adopted.

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 8th day of July, 2009.

James Harrison, President
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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Legend

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Exhibit "A"



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