

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

MINUTES

OCTOBER 14, 2009 AT 9AM

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

JAMES HARRISON, **PRESIDENT**
LARRY VIERHEILIG, **VICE PRESIDENT**
MICHAEL WINN, **DIRECTOR**
ED EBY, **DIRECTOR**
BILL NELSON, **DIRECTOR**

PRINCIPAL STAFF

BRUCE BUEL, **GENERAL MANAGER**
LISA BOGNUDA, **ASST. GENERAL MANAGER**
DONNA JOHNSON, **BOARD SECRETARY**
JON SEITZ, **GENERAL COUNSEL**
PETER SEVCIK, **DISTRICT ENGINEER**

Mission Statement: The Nipomo Community Services District's mission is to provide its customers with reliable, quality, and cost-effective services now and in the future.

00:00:00

A. CALL TO ORDER AND FLAG SALUTE

President Harrison called the October 14, 2009 Regular Meeting of the Nipomo Community Services District to order at 9:02 a.m. and led the flag salute.

00:01:05

B. ROLL CALL

At Roll Call, all Board members were present.

00:01:23

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) SHERIFF COMMANDER BRIAN HASCALL

Update re: South County Law Enforcement Activities

Commander Brian Hascall introduced Sgt. David Lapanovich, who may come to speak to the Board in case Commander Hascall cannot attend the meeting.

Cmdr. Hascall reported that on October 3, 2009, a Grande Ave. resident saw a man in the resident's car in his garage at 12:30 a.m. The perpetrator was apprehended.

Cmdr. Hascall warned the public to keep vehicles and houses locked.

A residence in Oceano was burglarized. Firearms were taken from the house.

The Board thanked Cmdr. Hascall for his presentation.

C-2) CAL FIRE BATTALION CHIEF BILL FISHER

Update re: South County Cal Fire Activities

Battalion Chief Bill Fisher gave an update of the CalFire activities on the Nipomo Mesa and reviewed the activity report given to the Board and public.

In September 2009, Nipomo Station #20 had a total of 115 calls: 6 fire calls, 15 vehicle accidents, 71 medical aids, and 23 other calls.

Mesa Station #22 had a total of 49 calls: 3 fire calls, 2 vehicle accidents, 27 medical aids, and 6 other calls.

The Board asked Cmdr. Hascall and Chief Fisher about code enforcement, such as campers on neighborhood property. They said to call them later with the details.

The Board thanked Chief Fisher for his report.

C-3) NCSD DISTRICT ENGINEER PETER SEVCIK

Update re: Sundale Well and September 2009 Activities

Peter Sevcik, District Engineer, reviewed the report presented in the Board packet. He answered questions from the Board. The Board thanked Mr. Sevcik for the report.

Nipomo Community Services District
REGULAR MEETING
MINUTES

C-4) NCS D GENERAL MANAGER BRUCE BUEL

Update re: Summary of 9/29/08 Miller Park Design Forum

Bruce Buel, General Manager, gave a summary of the September 29th design forum for the Miller Park. There were 23 in attendance. Mr. Buel answered questions from the Board.

The Board thanked Mr. Buel for the report.

C-5) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig

- o The Air Pollution Control District will have a public meeting Oct. 15, 2009, 2-4 p.m. concerning the draft CEQA Air Quality handbook. For more information, go to SLO Clean-Air.org.

Director Eby

- o Would like to hear announcements from NMMA TG meeting.
- o LAFCo will meet at the Dallidet Adobe at 1136 Pacific Street, SLO on Oct. 15 at 11:30 a.m. to approve a resolution honoring the service of retiring Executive Director, Paul Hood.

Director Winn

- o Thursday, Oct. 15, 11:30 a.m. – the Water Resources Advisory Committee (WRAC) sub-committee will meet in Atascadero to discuss the Master Water Plan. Oct. 23rd is the last day for WRAC to receive comments on the plan.
- o Friday, Oct, 16, Technical Group
- o Monday, Oct 19, 9:00 a.m. SCAC Land Use Committee will meet in the NCS D Board room.
- o Thursday, Oct. 22, Mr. Winn will meet with SLO BoS Supervisor Patterson.
- o Friday, Oct 23, Mr. Winn will not be able to be contacted.

Director Harrison

- o There was only one person in attendance at the Transition meeting.
- o Oct. 31, 2009, there will be a Walk for Polio at Oso Flaco Lake sponsored by the Nipomo Rotary Club. There will be hot dogs and hamburgers for the walkers.
- o Oct. 16, 2009 - Retirement party for the Fire Chief for the City of Santa Maria, at the Maldonado Center.
- o Dir. Harrison asked when NCS D requires landscape meter. Peter Sevcik, District Engineer, answered that the District requires all commercial and residential multi-family projects to install a separate irrigation meter. Customers believing such a meter should not be required may appeal to the Board.

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

00:55:33

D. CONSENT AGENDA

President Harrison announced that Item D-6 would be pulled from the agenda. Items D-4 and D-5 were pulled for separate consideration.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 9/30/09 Regular Meeting

D-3) REVISE BUDGET TO ACCOMMODATE EXTRA-BUDGET COSTS IN SETTING UP EMERGENCY OPERATIONS CENTER

Nipomo Community Services District
REGULAR MEETING
MINUTES

D. CONSENT AGENDA (CONT.)

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously approved Items D-1, D-2 and D-3 of the Consent Agenda, as amended. There was no public comment. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Vierheilg, Eby, Nelson and Harrison	None	None

RESOLUTION NO. 2009-1164
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING THE DISTRICT BUDGET TO ACCOMMODATE
ADDITIONAL COSTS IN SETTING UP EMERGENCY OPERATIONS CENTER

D-4) AUTHORIZE ROLL-OVER OF CD AT MISSION COMMUNITY BANK

After some discussion, Director Eby made the motion to approve the roll-over of the CD at Mission Community Bank. Director Winn seconded the motion. There was no public comment. Vote 4-1, with Director Harrison dissenting.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Winn, Vierheilg, and Nelson	Director Harrison	None

D-5) EXTEND TERM FOR VINTAGE HOMES (CRAIG) OUTSIDE USER AGREEMENT

Jon Seitz, District Legal Counsel answered questions from the Board.

The following member of the public spoke

Carol Florence, Oasis Landscape Architecture & Planning and representative for Vintage Homes, asked the Board to extend the Intent-to-Serve letter for Tract 2650.

Upon motion by Director Winn and seconded by Director Nelson, the Board approved an extension of the Intent-to-Serve letter for Tract 2650 for one year. Vote 4-1, with Director Eby dissenting.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Vierheilg, Nelson, and Harrison	Director Eby	None

D-6) REVISE COMMITTEE ASSIGNMENT ROSTER TO REPLACE DIRECTOR WINN WITH DIRECTOR HARRISON ON SCAC

This item was removed from the agenda. No action was taken.

E. ADMINISTRATIVE ITEMS

01:14:09

E-1) REVIEW DRAFT ASSESSMENT ENGINEER'S REPORT FOR PROPOSED MILLER PARK ASSESSMENT DISTRICT, ADOPT RESOLUTION ACCEPTING REPORT AND RETAIN THE WALLACE GROUP TO PROCESS THE ELECTION

Bruce Buel, General Manager, reviewed steps necessary to form an assessment district for services provided. The Wallace Group proposed to conduct the election, including preparing, mailing, and counting the ballots.

The Board discussed the process. The ballots are kept confidential until the public hearing.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board adopted the resolution approving engineer's report, as amended, and authorized staff to execute an agreement with Wallace Group. Vote 5-0.

Nipomo Community Services District
REGULAR MEETING
MINUTES

- E-1) REVIEW DRAFT ASSESSMENT ENGINEER’S REPORT FOR PROPOSED MILLER PARK ASSESSMENT DISTRICT, ADOPT RESOLUTION ACCEPTING REPORT AND RETAIN THE WALLACE GROUP TO PROCESS THE ELECTION (CONT.)

RESOLUTION NO. 2009-1165
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT TENTATIVELY APPROVING ENGINEER’S REPORT AND DECLARING THE INTENTION OF THE BOARD OF DIRECTORS TO ORDER THE FORMATION OF NIPOMO COMMUNITY SERVICES DISTRICT PARK MAINTENANCE DISTRICT NO. 1, TO LEVY AND COLLECT ASSESSMENTS

YES VOTES	NO VOTES	ABSENT
Directors Winn, Vierheilig, Nelson, Eby, and Harrison	None	None

01:49:35

- E-2) REVIEW BOARD OF SUPERVISORS ACTION ON PROPOSED JPA AND AUTHORIZE NEGOTIATION

Bruce Buel, General Manager, explained that the District submitted a request to Supervisor Achadjian to authorize the County and the County Flood Control District to proceed with the development of a Joint Powers Agreement (JPA) to facilitate the creation of one or more assessment districts to finance a supplemental water project for the delivery of water to various water companies with the Nipomo Mesa Water Conservation Area. The Board of Supervisors discussed the matter September 22, 2009.

Jon Seitz, District Legal Counsel, discussed some edits in the proposed JPA. The Board discussed the agreement and suggested some edits.

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously authorized staff to expedite the negotiations with the County. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Vierheilig, Nelson, and Harrison	None	None

02:12:52

- E-3) ADOPT ORDINANCE ESTABLISHING VOLUNTARY WATER SHORTAGE REGULATIONS

Bruce Buel, General Manager, explained that the Board reviewed an introductory version of the proposed ordinance on Sept. 30, 2009.

Director Winn made a motion to read the ordinance by Title only. Director Eby seconded the motion. There was no public comment. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Vierheilig, Nelson, and Harrison	None	None

Bruce Buel, General Manager, read the title of the proposed ordinance.

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously adopted Ordinance No. 2009-113. There was no public comment. Vote 5-0.

ORDINANCE NO. 2009-113
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT AMENDING CHAPTER 3.24 OF THE DISTRICT CODE

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Vierheilig, Nelson, and Harrison	None	None

02:16:27

- E-4) ADOPT ORDINANCE AMENDING WATER SERVICE ALLOCATION PROGRAM AND INTENT-TO-SERVE PROCESS

Bruce Buel, General Manager, explained that the Board introduced the ordinance amending water service limitations.

- E-4) ADOPT ORDINANCE AMENDING WATER SERVICE ALLOCATION PROGRAM AND

Nipomo Community Services District
REGULAR MEETING
MINUTES

INTENT-TO-SERVE PROCESS (CONT.)

The Board discussed the ordinance and made minor, non-substantive edits.

Upon motion by Director Vierheilg and seconded by Director Nelson, the Board unanimously agreed to have the ordinance read by title only. Vote 5-0.

Mr. Buel read the title of the proposed ordinance.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilg, Nelson, Winn, Eby, and Harrison	None	None

Upon motion by Director Vierheilg and seconded by Director Nelson, the Board adopted Ordinance 2009-114, with the proposed resolutions in the shell which are determined to be clerical not substantive. Vote 3-2, with Directors Eby and Harrison voting no.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilg, Nelson and Winn	Directors Eby and Harrison	None

**ORDINANCE NO. 2009-114
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 3.05 OF THE DISTRICT CODE
WATER SERVICE LIMITATIONS**

02:29:03

E-5) AWARD QUOTE AND AUTHORIZE FINANCING FOR SEWER VACUUM TRUCK

Robert Cruz, Inspector/Preventive Maintenance Supervisor, answered questions from the Board about the proposed purchase of a sewer vacuum truck.

There was no public comment.

Upon motion by Director Nelson and seconded by Director Vierheilg, the Board and approved Resolution 2009-1166. Vote 4-1, with Director Harrison voting no.

**RESOLUTION NO. 2009-1166
AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT SALE AGREEMENT,
AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS IN CONNECTION
WITH THE ACQUISITION OF A SEWER VACUUM TRUCK**

YES VOTES	NO VOTES	ABSENT
Directors Nelson Vierheilg, Eby, and Winn	Director Harrison	None

The Board went to Closed Session next.

02:55:05

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following to be considered in Closed Session:

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9 SMVWCD VS. NCSO (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).
2. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC SECTION 54956.9; NCSO VS. COUNTY SLO, ET AL. (CASE #CV090010)
3. INSTRUCTION TO NEGOTIATORS BRUCE BUEL, JON SEITZ AND LILLIAN JEWELL PURSUANT TO GOVERNMENT CODE SECTION 54956.8 FOR PURCHASE OF EASEMENT INTEREST IN APN 090-291-040, 041, 042, 043 AND 044 (OWNER: LINDA VISTA FARMS, NEGOTIATOR: JACQUELINE FREDERICK)
4. INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE

Nipomo Community Services District
REGULAR MEETING
MINUTES

SECTION 54956.9 (4 CASES)

5. REVIEW OF GENERAL MANAGER'S PERFORMANCE PURSUANT TO GOVERNMENT CODE SECTION 94957

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public present to comment.

K. ADJOURN TO CLOSED SESSION

President Harrison adjourned the meeting to Closed Session at 12:12 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came into Open Session at 1:43 p.m.

Jon Seitz, District Legal Counsel, announced the Board heard an update on Items 1 & 2 above and took no reportable action.

Item 3 – The Board gave instructions to its negotiators but took no reportable action.

Item 4 – The Board gave instructions to Legal Counsel.

Item 5 – The Board heard an update but took no reportable action.

02:58:12

E-6) CONSIDER GREY FAMILY TRUST REQUEST TO EXTEND TERM OF INTENT-TO-SERVE LETTER

Peter Sevcik, District Engineer, explained the request from Tract 2441, a thirty-eight lot subdivision, to extend the term of the Intent-to-Serve letter, which expires October 27, 2009.

Mr. Sevcik answered questions from the Board.

The Board discussed the situation. The ordinance passed at this meeting will extend all Intent-to-Serve letters for one year.

Upon motion by Director Harrison and seconded by Director Vierheilg, the Board denied the extension request on the basis that because of Board action today, a pre-existing extension is in place. There was no public comment. Vote 4-1, with Director Eby voting no.

YES VOTES	NO VOTES	ABSENT
Directors Harrison, Vierheilg, Nelson and Winn	Director Eby	None

03:29:50

F. MANAGER'S REPORT

Bruce Buel, General Manager, presented the Manager's Report as written. He added some information from the Department of Public Health. Copies of handout entitled "How to Dispose of Unused Medicines" were made available to the Board and the public.

Copies of "Guidelines for Physical Security of Wastewater/Stormwater Utilities" were also handed out.

Mr. Buel told the Board that Senate Bill 802 was vetoed by the governor.

Mr. Buel told the Board that Speedling Nursery will be pulling water until November 2, 2009.

Bill Mays from Eco Star will be presenting information on full tertiary treatment. Mr. Buel suggested Mr. Mays get the information he needed from the District's website.

Holiday lunch announced.

04:00:51

G. COMMITTEE REPORT

The Committee Report is as submitted.

04:01:07

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

**Nipomo Community Services District
REGULAR MEETING
MINUTES**

Director Winn

- o Would like to agendaize further discussion of monitoring wells.
- o CIMIS station at Blacklake was authorized by the County and it took 5 years to complete.
Mr. Buel assured Dir. Winn that NCSD is in charge and will be in operation sooner.
- o Would like to talk to staff before October 22nd meeting before talking to Mr. Patterson about District's position on bio-solids and vermiculture.
- o Would like to agendaize discussion of emergency outside water use sales.
- o Would like discussion on legal structure and obligations of mutual water companies.

Director Eby

Water Resources Advisory Committee meeting - Comments on technical memorandum needed by October 23rd.

Would like AB 2882 information.

ADJOURN

President Harrison adjourned the meeting at 2:57 p. m.