

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

MINUTES

OCTOBER 28, 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

00:00:00 A. CALL TO ORDER AND FLAG SALUTE

President Harrison called the October 28, 2009 Regular Meeting of the Nipomo Community Services District Board of Directors to order at 9:02 a.m. and led the flag salute.

00:01:15 B. ROLL CALL

At Roll Call, all Board members were present.

00:01:30 C. PRESENTATIONS AND PUBLIC COMMENT

C-1) MIKE NUNLEY OF AECOM

Update re: Waterline Intertie Project Progress & Cost Estimate and Southland WWTF Progress

Mike Nunley, AECOM Project Manager, reviewed the report on the progress of the Waterline Intertie Project, as presented in the Board packet. He answered questions from the Board about the project.

Director Vierheilig requested Mr. Nunley to provide an estimate of funds needed to complete the remaining efforts for Task Groups 1 thru 6.

Next he reviewed the report on the progress of the Southland Wastewater Treatment Facility Upgrade Project, as presented in the Board packet. He answered questions from the Board about the project.

There was no public comment. The Board thanked Mr. Nunley for the reports.

C-2) NCSD DISTRICT ENGINEER PETER SEVCIK

Update re: Sundale Well Fire Damage and Remediation

Peter Sevcik, District Engineer, stated that demolition of the Sundale Well is planned to begin October 29, 2009. The District is receiving quotes for pulling the well, video taping the casing, and other tasks. Mr. Sevcik answered questions from the Board. There was no public comment. The Board thanked Mr. Sevcik for his report.

C-3) NCSD SUPERINTENDENT TINA GRIETENS

Update re: Monthly Utility Division Activities

Tina Grietens, Utility Superintendent, reviewed the information presented in the Board packet and answered questions from the Board. There was no public comment. The Board thanked Ms. Grietens for the report.

C-4) NCSD WATER CONSERVATION COORDINATOR CELESTE WHITLOW

Update re: Monthly Outreach Activities

This item was postponed until the next meeting.

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C-5) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest

Director Nelson

Mr. Nelson announced that Mr. George Billinger passed away yesterday, October 27, 2009. He often participated in District meetings and will be missed.

Director Vierheilig

Nov. 7, 2009 – San Luis Obispo Chapter of the California Native Plant Society will hold a plant sale from 9:00 a.m. to 3:00 p.m. in the Madonna Plaza Heritage Oaks Bank parking lot.

Director Eby

There will not be a LAFCo meeting November 19th. The next meeting will be Dec. 17th. He attended the Grover Beach City Council meeting on Oct. 19th. Seawater intrusion and a rate increase needed due to conservation were topics of interest. Arroyo Grande City Council discussed seawater intrusion at the Pier Avenue sentry well.

Director Winn

- Nov. 4, 2009 - The following will be discussed at the Water Resources Advisory Committee (WRAC) at the SLO Library at 1:30 p.m.
 - GPA grading – WRAC will not take a position
 - Sea-Land committee has not moved forward
 - There is a plan for the County to consolidate land use planning areas into five areas combined with the circulation element. It will affect the District, if it goes through. People can apply to have their land rezoned, or conditions altered, to be bundled in with the County's GPA.
 - Water Master Plan progress – significant document. A report will be coming after County staff has information ready.
- Oct. 26, 2009 – South County Advisory Council met. Director Eby gave a very good report on sea water intrusion at the sentry well on Pier Ave. in Oceano.
- Peg Miller plans to aid the District with claims over rights to the railroad easement
- He met with Supervisor Patterson and discussed bio-solids and vermiculture. They agreed to the banning of imported sludge from other counties.
- SLOCOG monies for transportation slated for Willow Road extension will not be spent elsewhere.
- Pier Ave. information was taken from summaries of data. Would like to get copy of well measurements and the complete report from Grover Beach City Engineer.

C-6) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

John Snyder, Nipomo resident, stated that he is concerned about the monitoring of the sentry wells and the Oso Flaco Well. He also stated that he had requested a copy of the minutes collected over several years to be put on one CD.

Jon Seitz, District Legal Counsel, answered that the County has budgeted replacement for that lost sentry well.

01:13:33 D. CONSENT AGENDA

Director Nelson asked to pull Item D-4 for separate consideration.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 10/14/09 Regular Meeting

D-3) AUTHORIZE PARTICIPATION IN STATE PROPERTY TAX SECURITIZATION PROGRAM

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D. CONSENT AGENDA (CONTINUED)

Mr. Buel answered questions about some items on the Warrants and a correction was made to the Minutes in Item H.

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously approved Items 1-3 on the Consent Agenda. There was no public comment. Vote 5-0.

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

**RESOLUTION NO. 2009-1167
A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING
THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT
AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S
PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND
AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

D-4) RECOGNIZE THE BLACKLAKE COMMUNITY FOR WATER SAVINGS

Bruce Buel, General Manager, explained that the proposed proclamation was prepared to commend Blacklake for its efforts to conserve water.

Director Nelson pulled this item for separate consideration. He stated that of the 28 irrigation meters in the Blacklake community, there are 15 landscaping meters operated by the BLMA and 13 by others. The proclamation should reflect that it was the community rather than just the Blacklake Management Association responsible for the water conservation move. He and other Board members made suggestions for edits. There was no public comment.

The proclamation reads as follows:

The Nipomo Community Services District is pleased to commend the Blacklake Community for taking the initiative in water conservation by removing lawn and replacing it with drought-tolerant plants. It is anticipated that long-term water savings will be accomplished from this effort. By taking this step, the Blacklake Community shows support for the goal of decreasing the amount of water used on the Nipomo Mesa, and the NCS D gives its thanks for this effort.

Upon motion by Director Nelson and seconded by Director Vierheilig, the Board unanimously approved the proclamation, as amended. Vote 5-0.

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

E. ADMINISTRATIVE ITEMS

01:25:23

E-1) AUTHORIZE EXECUTION OF FINAL WATER SALES AGREEMENT WITH THE CITY OF SANTA MARIA

Bruce Buel, General Manager, introduced the item.

Peter Sevcik, District Engineer, reviewed the agreement with the City of Santa Maria and suggested some added language.

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

Steve Kahn, Utilities Engineer for the City of Santa Maria, stated that he was pleased to present the document to the City Council, as amended. The City Council will meet November 17th at 6:30 p.m.

The Board had suggestions and questions. Mr. Kahn stated that the Exhibit A, presented in the Board packet, will be removed and that details will be worked out in the Operational MOU.

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E-1) AUTHORIZE EXECUTION OF FINAL WATER SALES AGREEMENT WITH THE CITY OF SANTA MARIA (CONTINUED)

Mike Nunley, AECOM Project Manager, answered questions from the Board concerning operating the system at the point of connection.

Director Eby said he would have supported the agreement last discussed by the Board, but could not support the changes recommended in the last 72 hours.

The following member of the public spoke:

John Snyder, Nipomo resident, stated that the Board needs more time to digest the agreement before making a decision. He stated that it is not clear what Santa Maria has to sell.

Upon motion by Director Winn and seconded by Director Nelson, the Board approved the agreement, as amended by the memo from Mr. Sevcik and the added language. Vote 4-1, with Director Eby dissenting.

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

02:17:02

E-2) REVIEW PROPOSED CRITERIA FOR FORMATION OF JOINT POWERS AGREEMENT WITH SLO COUNTY FOR WATERLINE INTERTIE PROJECT FUNDING AND APPROVE COST RE-IMBURSEMENT AGREEMENT

Bruce Buel, General Manager, introduced the item.

Jon Seitz, District Legal Counsel, reviewed the proposed Joint Powers Agreement (JPA) between San Luis Obispo County and the District concerning the cost reimbursement for the Waterline Intertie Project. Mr. Seitz stated that the agreement will be on the Board of Supervisors agenda for November 10th.

The Board asked questions and had suggestions for edits to the agreement.

The following members of the public spoke:

John Snyder, Nipomo resident, asked if there will be one assessment or multiple assessments.

Mr. Seitz answered that there are many possibilities.

Upon motion by Director Vierheilig and seconded by Director Eby, the Board unanimously approved the agreement in concept, as amended, with final edits by the County and instructed the President to sign the agreement. Vote 5-0.

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

The Board considered Closed Session next.

02:39:05

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following items 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 #CV09001 0)
3. INSTRUCTION TO NEGOTIATORS BRUCE BUEL, JON SEITZ AND LILLIAN

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JEWELL PURSUANT TO GOVERNMENT CODE SECTION 54956.8 FOR PURCHASE OF PARTIAL EASEMENT INTEREST IN APN 090-291-039 THROUGH 045 (OWNER: LINDA VISTA FARMS, NEGOTIATOR: (JACQUELINE FREDERICK)

4. INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (3 CASES)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

President Harrison announced that it is expected to be back in Open Session by 1:20 p.m. He adjourned to Closed Session at 11:56 a.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:21 p.m.

The Board considered item E-6 next.

02:42:10

E-6) ACCEPT FY2008-09 AUDIT

Bruce Buel, General Manager, introduced Robert Crosby.

Robert Crosby, CPA, of Crosby Company, presented the Audit Report for Fiscal Year 2008-2009. He commended staff for its work.

Mr. Crosby answered questions from the Board.

There was no public comment.

Upon motion by Director Vierheilg and seconded by Director Winn, the Board unanimously agreed to accept and file the Audit Report for Fiscal Year 2008-2009, with appreciation to the auditor and staff who produced the report. Vote 5-0.

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

The Board considered item E-7 next.

02:57:58

E-7) REVIEW RESEARCH ON NIPOMO MESA MUTUAL WATER COMPANIES[

Bruce Buel, General Manager, introduced Michael LeBrun to present this item.

Michael LeBrun, of LeBrun Environmental Engineering, reviewed the information provided in the Board packet concerning how mutual water companies over the Nipomo Mesa Management Area aquifer are formed.

It was suggested that the topic could be considered at WRAC or LAFCo.

There was no public comment.

The Board thanked Mr. LeBrun for the very informative report.

The Board considered item E-4 next.

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03:39:56

E-4) AWARD BID FOR CONSTRUCTION OF MISTY GLEN INTERTIE AND AUTHORIZE EXECUTION OF CONTRACT

Bruce Buel, General Manager, introduced Peter Sevcik to present this item. Peter Sevcik, District Engineer, explained that the District advertised for bids for installing a pressure-reducing station between our high pressure zone in Willow Road and the lower pressure zone within Blacklake. Seven bids were received. R. Baker is the lowest responsible bidder. The second item to be considered is for construction management services to assist staff during the construction phase of the project. Mr. Sevcik answered questions from the Board. There was no public comment.

Upon motion by Director Nelson and seconded by Director Vierheilg, the Board unanimously approved staff recommendation. Vote 5-0.

Recommendation:

1. Award the bid for the project to R. Baker Inc. for \$76,989 and authorize General Manager to execute construction agreement.
2. Authorize the General Manager to issue individual Change Orders for up to \$5,000 with an aggregate Change Order total not to exceed \$10,000.
3. Authorize staff to file a Notice of Exemption for the project.
4. Authorize the General Manager to execute a task order with Cannon for construction management services for the not-to-exceed amount of \$22,813 for the project.
5. Direct staff to defer Blume Street project for FY 09-10 and transfer funding to Misty Glen Waterline Connection Project.

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

The Board considered item E-3 next.

03:55:58

E-3) ADOPT GUIDELINES FOR CONDUCTING ASSESSMENT PROCEDURES

Jon Seitz, District Legal Counsel, reviewed the proposed resolution. Mr. Seitz answered questions from the Board.

E-3) ADOPT GUIDELINES FOR CONDUCTING ASSESSMENT PROCEDURES (CONT)

The following member of the public spoke:

Vince McCarthy, NCS D resident, asked if a ballot is returned with neither a yes or no marked, will it be thrown out. Mr. Seitz answered that it would be. Mr. McCarthy asked if a person refused to pay the assessment, what the penalty would be. Mr. Seitz answered that the assessment is put on the tax rolls. If taxes are not paid, a lien is put on the property and can be foreclosed.

The Board made several recommendations for changes in the resolution.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board adopted Resolution 2009-1168 with attachments, as amended. Vote 5-0.

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

RESOLUTION NO. 2009 - 1168
A RESOLUTION OF THE NIPOMO COMMUNITY SERVICES
DISTRICT ADOPTING PROCEDURES APPLICABLE TO THE COMPLETION,
RETURN AND TABULATION OF ASSESSMENT BALLOTS FOR THE
NIPOMO COMMUNITY SERVICES DISTRICT MAINTENANCE DISTRICT NO. 1

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The Board considered item E-5 next.

04:25:22

E-5) REVIEW LEGAL RESEARCH ON SETTING MULTIPLE-TIER WATER RATES

Jon Seitz, District Legal Counsel, reviewed the basic premise of AB 2882, which authorizes water providers to employ allocation-based conservation water pricing that rewards conservation and penalizes overuse of water.

Mr. Seitz answered questions from the Board.

Director Winn made a motion to authorize Counsel to consult with Harriet Steiner to get a second opinion. The motion failed for a lack of a second.

There was no public comment. There was no Board action.

The Board considered item E-8 next.

05:08:56

E-8) CONSIDER AMENDING REIMBURSEMENT AGREEMENT WITH SLO COUNTY RE: WILLOW ROAD WATER LINE

Jon Seitz, District Legal Counsel, explained that the District entered into a reimbursement agreement with the County of San Luis Obispo for the construction of the District's waterline concurrent with the County's roadway project. The proposed amendment, providing the District with the flexibility to accept or reject the additive bid for the waterline work, was presented to the Board.

There was no public comment.

Upon motion by Director Winn and seconded by Director Nelson, the Board unanimously approved the amendment, as presented. Vote 5-0.

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

05:15:53

F. MANAGER'S REPORT

Bruce Buel, General Manager, stated that the Manager's Report is as submitted. Peter Sevcik, District Engineer, handed information to the Board and made information available to the public concerning the Woodland Golf Course irrigation system. He reviewed the memo. Mr. Sevcik answered questions from the Board. There was no public comment.

05:26:00

G. COMMITTEE REPORT

The Water Conservation Committee meeting will not be held Friday, October 23, as previously planned.

05:26:36

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Nelson

He would like a report, using new conservation software, that shows water used on the Blacklake community meters. Mr. Buel stated that a report will be coming at the Nov. 18th meeting.

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H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS (CONTINUED)

Director Vierheilig

- He would like to look at custodial credit risks in LAIF.
- Look at current billing system capabilities.
- Received several phone calls regarding the 'fixed charge' for Arroyo Grande in our draft rate study. People indicated a fixed charge of \$10 rather than the \$40 as noted in the study. Director Vierheilig called several contacts in Arroyo Grande; each of them indicated a fixed charge of approximately \$40 indicating the study is correct. Director Harrison stated that he got into a conversation with one of our rate payers Saturday and he made the statement that Arroyo Grande only paid ten dollars. Director Harrison told him this same thing. About thirty minutes later he came back with a bill from the City of Arroyo Grande. The charge for water for a one-inch meter is \$6.35 monthly. For a 5/8" meter, it is just over five dollars per month - less than \$11.00 per billing cycle.
- After receiving letter from ACEC, do we need a written bid/selection guideline policy?

Director Winn

- Discuss expediting installing photovoltaic systems. Those who have installed such systems may get paid for the excess power produced.
- Would like the full Technical Report that Grover Beach has for Pier Ave. sentinel well.
- Would like more information on position negotiations for the State Vehicle Recreation Area.
- What can Board do to move County Planning and Public Health for updating their application forms for wells to make them more useful? Is it an adjudicated basin, in RMS, etc.?
- What can the NCSD do to motivate and help County Planning and Public Health to improve their application forms, to include critical information about limitations on water resources (e.g., RMS LoS II or III, water rights adjudication)?
- Director Winn will bring more information about the proposed vermiculture pilot project when it is released.
- Would like Mr. Nelson to convey the District's respect to the Billinger family.

ADJOURN

President Harrison adjourned the meeting at 4:28 p.m.