

TO: MICHAEL S. LEBRUN *MSL*  
 GENERAL MANAGER

FROM: PETER V. SEVCIK, P.E.  
 DIRECTOR OF ENGINEERING  
 & OPERATIONS

DATE: JUNE 27, 2014

**AGENDA ITEM  
 E-1  
 JULY 9, 2014**

**SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE 1  
 IMPROVEMENT PROJECT  
 AUTHORIZATION FOR PARTIAL RETENTION RELEASE**

**ITEM**

Consider partial release of retention to Cushman Contracting Corporation for Southland Wastewater Treatment Facility Phase 1 Improvement Project [RECOMMEND AUTHORIZE STAFF TO RELEASE \$287,738 OF RETENTION].

**BACKGROUND**

On June 13, 2012, your Board awarded a construction contract for the Southland Wastewater Treatment Facility (WWTF) Phase 1 Improvement Project to Cushman Contracting Corporation. Construction began in July 2012 and is now almost completed.

After the new treatment facilities were commissioned, staff identified some additional work that needed to be completed and asked the contractor to provide the District with a cost to perform the additional work. The contractor has agreed to perform the additional work but since the additional work extends the overall contract time for the project to September 4, 2014, the contractor asked the District to consider a partial release of the retention being held for the overall project as well as to start the warranty period for all equipment and work performed.

The District's Construction Manager, MNS Engineers, provided the attached letter recommending that the District release 50% of the retention withheld for the project to date and that the warranty period start on July 9, 2014 for all equipment and work performed excluding the Biolac Aeration Basin and the Gravity Belt Thickener. As stated in the letter from MNS, all punch list items and change order work will need to be completed before the District can consider approving the Notice of Completion and releasing the remaining retention. District legal counsel and special legal counsel did review the recommendation.

**FISCAL IMPACT**

The summary of construction costs as of May 2014 is as follows:

<b>Construction Contract Cost Summary</b>	
Original Contract Amount – Cushman Construction Co.	\$10,224,900
Change Order for Alternate Y, Additional Disposal Ponds	\$867,900
Other Change Orders to Date	\$431,055
Revised Contract Amount	\$11,513,525
<b>Completed to Date</b>	<b>\$11,552,955</b>
Total Paid to Date	\$10,934,049
Retention to Date	\$575,476
<b>Proposed 50% Retention Release</b>	<b>\$287,738</b>

**STRATEGIC PLAN**

Goal 2 – FACILITIES THAT ARE RELIABLE, ENVIRONMENTALLY SENSIBLE AND EFFICIENT – Plan, provide for and maintain District facilities and other physical assets to achieve reliable, environmentally sensible, and efficient District operations.

**RECOMMENDATION**

Staff recommends that the Board, by motion and roll call vote, authorize staff to release \$287,738 of retention for the Southland WWTF Phase 1 Improvement Project to Cushman Contracting Corporation and that the warranty period start on July 9, 2014 for all equipment and work performed excluding the Biolac Aeration Basin and the Gravity Belt Thickener.

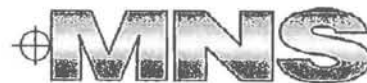
**ATTACHMENTS**

Attachment A – MNS Letter Dated June 23, 2014

JULY 9, 2014

ITEM E-1

ATTACHMENT A



811 El Capitan Way, Ste. 130 / San Luis Obispo CA 93401  
Ph. (805) 787-0326 / F. (805) 787-0437

June 23, 2014

Mr. Peter V. Sevcik  
Director of Engineering and Operations  
Nipomo Community Services District  
148 South Wilson Street  
Nipomo, CA 93444

**RE: Recommendation for 50% Retention Release  
Southland Wastewater Treatment Facility Improvements, Phase 1**

Dear Peter:

MNS Engineers, Inc. has reviewed the status of the District's contract with Cushman Contracting, Inc. and performed an inspection of the project site on June 12, 2014 to review all outstanding items.

Based on the status of the work, MNS is recommending the District release 50% of the retention withheld for the Southland Wastewater Treatment Facility Improvements, Phase 1 Project, to Cushman Contracting, Inc.

MNS also recommends the District begin the warranty period for all equipment and work performed starting July 9, 2014, excluding the Biolac system in Aeration Basin #1, which will be finalized upon completion of the extra work requested by the District to install additional diffuser assemblies, and the Gravity Belt Thickener, which still requires programming in the PLC to increase the delay between the start-up of the polymer pump and the sludge pump.

Cushman will continue to perform punch list items, and change order work requested by the District, which will need to be completed before the Notice of Final Completion can be approved and remaining retention released.

Sincerely,

MNS ENGINEERS, INC.

A handwritten signature in black ink that reads "Kim R. Lindbery". The signature is written in a cursive style.

Kim R. Lindbery, P.E.  
Project Manager

KRL/krl

cc: Greg Chelini, P.E. Construction Manager, MNS Engineers, Inc.

[mnsengineers.com](http://mnsengineers.com)

TRANSPORTATION / WATER RESOURCES / GOVERNMENT SERVICES / FEDERAL

TO: BOARD OF DIRECTORS  
FROM: MICHAEL LEBRUN  
GENERAL MANAGER  
DATE: JULY 3, 2014

*MSL*

**AGENDA ITEM  
E-2  
JULY 9, 2014**

**CONSIDER RESCISSION CRITERIA FOR  
WATER FUND LITIGATION CHARGE**

**ITEM**

Consider water fund litigation charge and discuss rescission criteria [CONSIDER LITIGATION CHARGE AND DIRECT STAFF]

**BACKGROUND**

In 1997, the District was included in the Santa Maria Valley Groundwater Litigation. In May 1999, your Board adopted Ordinance 99-88 amending District water rates to cover estimated litigation costs. The staff report and adopted ordinance are attached hereto as Attachment A.

In December 2002, the Board approved a Rate Study which set the Litigation charge at \$3.16 per month (\$6.32 bi-monthly) for 1-inch meters. Attachment B is an excerpt from the Rate Study. Subsequently, your Board approved Ordinance 2003-95 which adopted the Litigation Charge. Ordinance 2003-95 is included herein as Attachment C.

Since 1999, the District has collected approximately \$1.96 million in Litigation Charge assessed fees. Over the same period, the District has expended nearly \$3.0 million in special legal counsel and trial support charges. These expenses do not include staff time, continued representation by the District's groundwater expert on the Nipomo Mesa Management Area Technical Group, or District Legal Counsel charges related to the groundwater litigation.

**FISCAL IMPACT**

The Litigation Charge generates approximately \$165,000 in revenues annually.

**RECOMMENDATION**

Consider the information provided and direct staff regarding the rescission of the Litigation Charge.

**ATTACHMENTS**

- A. May 19, 1999 Staff Report and Ordinance 99-88
- B. Excerpt from December 2002 Rate Study
- C. Ordinance 2003-95

JULY 9, 2014

ITEM E-2

ATTACHMENT A



MAY 19 1999

TO: BOARD OF DIRECTORS  
 FROM: DOUG JONES  
 DATE: MAY 19, 1999

**ADOPTION OF AN ORDINANCE  
 ADJUST/CLARIFY FEES**

**ITEM**

Second reading and adoption of an ordinance to amend certain District codes for clarification and adjusting the Town Division water rates to cover litigation costs. The items to be adjusted are as follows:

1. Adjust Town Division water and Black Lake Division sewer fees
2. Clarification of Town Division sewer capacity charges
3. Clarify requirement for reimbursement agreement

**BACKGROUND**

The Nipomo Community Services District has been brought into the groundwater adjudication by the Santa Maria Valley Water Conservation District (SMVWCD) vs NCS D Case No. CV 770214, Santa Clara County. The costs for litigation will come from the Black Lake and Town Divisions' Water Funds.

Water user fees should be adjusted next fiscal year to assist in the ground water litigation costs estimated to be \$100,000.00. The District fees are established pursuant to the California Government Code.

The Black Lake Water Fund consumes approximate 16% of the water consumed by the entire District, therefore, it is appropriate that this fund's share of the legal fees for the groundwater litigation be 16%. The Black Lake Division Water Fund has adequate reserves at this time to fund their share of the litigation, therefore, a rate increase in the Black Lake Division is not recommended.

The Town Division Water Fund is insufficient to cover the estimated legal costs, therefore, existing fees need to be adjusted. It is proposed that the Town Division water fees be modified as follows:

	<u>Current</u>	<u>Proposed Increase</u>	<u>Total</u>
Flat Fee/bi-monthly	\$13.00 per billing period (bi-monthly)	4.50 per billing period	\$17.50
Less than (<) 4000 cu ft bi-monthly	\$0.75 per hundred cubic feet	\$ 0.05/hcf	\$0.80/hcf
Over (>) 4000 cu. ft. bi-monthly	\$1.15/hcf	None	\$1.15

It is estimated that this increase in fees will generate approx. \$85,000 per year to pay for the Town Division's water share of the groundwater litigation.

TO: BOARD OF DIRECTORS  
FROM: DOUG JONES  
DATE: MAY 19, 1999

ADOPTION OF AN ORDINANCE  
ADJUST/CLARIFY FEES  
Page 2

Town Division - Sewer Capacity Charges (clarification only -no modification proposed)

In 1997, the Board of Directors adopted the Town Division Sewer Capacity Charges of \$2,370 per DUE with a future increase in the year 2001 of \$2,500. Exhibit A of the proposed ordinance reaffirms these fees, which will be incorporated into the District Code as Exhibit A.

Black Lake Sewer Fees

The Black Lake Sewer Fund presently has no reserves and periodically is in a deficit position. A normal operating fund should have about three months cash reserve to cover unforeseen events. To have adequate funds, it is recommended that the monthly Sewer User Fee be increased \$1.50 per month. "The Legends" 57 homes are expected to be built out by the end of next fiscal year (6/30/00). The Black Lake Advisory Committee has met and support the increase of \$1.50 per month.

Reimbursement Agreement

The District has established a reimbursement agreement for developers who construct the sewer and/or water lines that may benefit other property. The developer may receive reimbursements for facilities they install from future users. This amendment to the reimbursement agreement indicates that the developer is to supply the District all the costs associated with the improvements within 90 days after the District accepts the project. If the cost information is not presented to the District within the 90 days, the applicant will waive its rights to reimbursement.

**RECOMMENDATION**

It is staff's recommendation to adopt Ordinance No. 99-88 amending the District Codes after receiving public comment by:

1. Adjusting water and sewer fees
2. Clarification of Town Division sewer capacity charges
3. Clarifying requirements for reimbursement agreements

A Roll Call vote would be in order to adopt Ordinance 99-88.



**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 99-88**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3, TITLE 4 AND TITLE 5 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO:**

- 1. ADJUST MONTHLY WATER RATES FOR THE TOWN DIVISION;**
- 2. ADJUST MONTHLY SEWER RATES FOR THE BLACK LAKE DIVISION;**
- 3. CLARIFY CALCULATIONS FOR ESTABLISHING SEWER CAPACITY CHARGES; AND**
- 4. CLARIFY REQUIREMENTS FOR REIMBURSEMENT AGREEMENTS**

**WHEREAS**, it is the purpose of this Code Amendment to:

- A. Adjust water rates to maintain adequate levels of revenue equitably collected from all classes of water customers within the Town Division to meet the District's financial obligations pertaining to a lawsuit titled Santa Maria Valley Water Conservation District v. City of Santa Maria, the Nipomo Community Services District, et al.;
- B. Adjust sewer rates to maintain adequate levels of revenue equitably collected from sewer customers within the Black Lake Division.
- C. To clarify the computation for establishing sewer rates and charges; and
- D. To clarify the timing of applications for reimbursement for facility extensions; and

**WHEREAS**, based upon facts and analysis presented in the Staff Report, Staff presentation, and public testimony received, the Board of Directors finds:

- A. This public meeting has been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act); and
- B. The fees, rates and charges that are the subject of this Ordinance do not exceed the estimated reasonable cost of providing the services for which the fees and/or charge or charges are imposed,

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

**Section 1.** Authority.

- 1.1. This Ordinance is enacted pursuant to Government Code Sections 61600(a) and (b), 61621, 61621.5, 61623.

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 99-88  
ORDINANCE AMENDING DISTRICT CODE**

**WATER RATES AND CHARGES**

**Section 2.**

Appendix A and B to Chapter 3.03 of the District Code is amended to read as follows:

Appendix A

Bi-Monthly Minimum Charge

Size of Meter (Inches)	Minimum	Litigation
	See Footnote 4	See Footnotes 1,2,3
	A	B
1" or less	\$13.00	\$17.50
1 1/2"	\$30.00	\$36.00
2"	\$42.00	\$50.00
3"	\$60.00	\$70.00
4"	\$90.00	\$100.00
6"	\$150.00	\$165.00

Appendix B

Bi-Monthly Water Rates

0-40 units	\$0.75 per unit	\$.080 per unit
Over 40 units	\$1.15 per unit	\$1.15 per unit

- Footnote 1: The litigation rates referenced in Column "B" apply to the Town Division only.
- Footnote 2: Unless further action is taken by the District Board of Directors, the rates established in column B shall terminate at the time the District's financial obligations regarding Santa Maria Valley Water Conservation District v. City of Santa Maria, the Nipomo Community Services District, et al. have been satisfied and thereon the rates will revert to those established in Column "A"
- Footnote 3: The effective date of the Column "B" water rates is July 1, 1999.
- Footnote 4: The minimum charges established in Column "A" shall continue to apply to the Black Lake Division.

**SEWER RATES AND CHARGES**

**Section 3.**

Subsection B.2. of Section 3.03.180 of the District Code is repealed in its entirety and replaced with the following:

- "B. Sewer rates shall be charged as follows:
1. (unchanged)
  2. Monthly sewer charges are set forth in Exhibit B of the Appendix to Chapter 4.12."

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 99-88  
ORDINANCE AMENDING DISTRICT CODE**

**Section 4.**

Appendix C to Chapter 3.03 of the District Code is repealed in its entirety. Exhibit B of the Appendix to Chapter 4.12 is reaffirmed as amended by this Ordinance.

**Section 5.**

Subsection A of Section 4.12.080 is repealed in its entirety and replaced with the following:

- "A. Computation Method and Unit Cost. Except as limited elsewhere in this code, the capacity charge shall be computed by multiplying the customer's dwelling unit equivalent (DUE) as determined by the district, times capacity charge. Capacity charges are stated in Appendix A to this chapter.

**Section 6**

The District hereby reaffirms the following capacity charges established as Exhibit A to the Appendix of Chapter 4.12:

Appendix to Chapter 4.12

Exhibit A

Cost of Sewer Capacity Charge – Nipomo Division  
per Dwelling Unit Equivalent (DUE)

Future increases will take effect on July 1<sup>st</sup> of the year 2001:

	1997	2001
	(Existing)	(Future)
Per DUE	\$2,370	\$2,500

**Note:** *Volunteers (Properties within the Nipomo Sewer Project Assessment District) with existing structures or new construction replacing structures existing prior to 1985 and having no greater DUE will not have a sewer capacity charge. All other new construction on volunteer property as zoned in 1985 shall have the option to pay the District Sewer Capacity Charge, as defined above or \$2,100/DUE.*

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 99-88  
ORDINANCE AMENDING DISTRICT CODE**

**Section 7.**

Exhibit B of the Appendix to Chapter 4.12 is repealed in its entirety and replaced with the following:

Appendix to Chapter 4.12

Exhibit B

Bi-Monthly Sewer User Fees  
Town Division

Bi-Monthly Operation & Maintenance Charge	Per DUE
All sewer customers Town Division	\$36.00
All sewer customers Black Lake Division	\$43.00
Montecito Verde II Sewer Maintenance District	\$28.00 See Footnote 1
Folkert Oaks Sewer Maintenance District	\$12.00 See Footnote 1
Folkert Oaks Sewer Stand-by Charge	\$ 6.00 See Footnote 1

Footnote 1: Upon connection to the Town Division Wastewater Treatment Plant, the identified Sewer Maintenance District bi-monthly operation and maintenance charges shall be the same as the charges collected from sewer customers of the Town Division.

**REIMBURSEMENT AGREEMENTS**

**Section 8.**

Section 5.01.031 is added to the District Code to read as follows:

"5.01.031     Applications for Reimbursement.

- A. In order to qualify for reimbursement of excess costs, pursuant to this Chapter, Applicant shall, within ninety days of District's acceptance of District facilities, deliver to District the following:
1. Written application requesting reimbursement of excess costs; and
  2. A certified statement showing the Applicant's actual costs in constructing District facilities.
- B. The Applicant shall cooperate with the District's Engineer in reviewing costs. If Applicant does not submit the request and the certified statement of costs within ninety days of District's acceptance, Applicant shall have waived all right to reimbursement.

**MISCELLANEOUS**

**Section 9. CEQA Finding**

The Board of Directors of the District finds that the adoption of this ordinance does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 99-88  
ORDINANCE AMENDING DISTRICT CODE**

21000 et. seq.) or its implementing Guidelines (14 California Code of Regulations Section 15000 et seq.) ("CEQA Guidelines"). The Board further finds that the adoption of this ordinance falls within the activities described in Section 15378(b)(3) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of this ordinance were a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance and the approval of the provisions contained herein may have a significant effect on the environment. The District General Manager is authorized to prepare, execute and file a notice of exemption pursuant to the above provisions.

**Section 10. Repeal of Prior Ordinances and Resolutions**

All ordinances, sections of ordinances and resolutions that are inconsistent with this ordinance are hereby repealed.

**Section 11. Repeal Shall not Revive any Ordinances.**

The repeal of ordinances and sections of ordinances herein shall not repeal the repealing clause of such ordinances or revive any ordinances which have been repealed thereby.

**Section 12. Effect of Repeal on Past Actions and Obligations.**

This ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this ordinance, does not waive any fee or penalty due and unpaid on the effective date of this ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance.

**Section 13. Severance Clause.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this ordinance. The Governing Board of the District hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

**Section 14. Effect of Headings in Ordinance.**

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

**Section 15. Effective Date.**

This ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage it shall be posted in three (3) public places with the names of the members voting for and against the ordinance and shall remain posted thereafter for

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 99-88  
ORDINANCE AMENDING DISTRICT CODE**

at least one (1) week. The ordinance shall be published once with the names of the members of the Board of Directors voting for and against the ordinance in the Five Cities Times Press Recorder.


Introduced at a regular meeting of the Board of Directors held on May 5, 1999 and passed and adopted by the Board of Directors of the Nipomo Community Services District on the 19<sup>TH</sup> day of May, 1999, by the following roll call vote, to wit:

**AYES:** Directors Kaye, Simon, Mendoza, Mobraaten and Blair

**NOES:** None

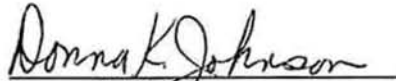
**ABSENT:** None

**ABSTAINING:** None



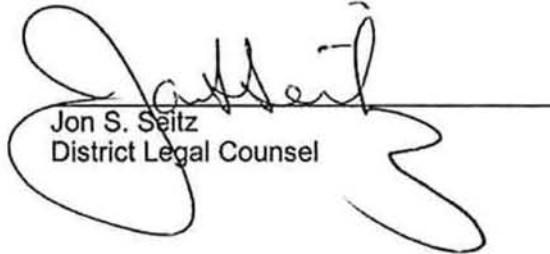
Robert L. Blair, President of the Board  
Nipomo Community Services District

**ATTEST:**



Donna K. Johnson  
Secretary to the Board

**APPROVED AS TO FORM:**



Jon S. Seitz  
District Legal Counsel

ordinance\ord 99-88



JULY 9, 2014

ITEM E-2

ATTACHMENT B

Black Lake Water Division

COMMODITY RATES	2003 (OLD)	2004	2005	2006	2007	2008	2009
0 - 20 hcf	.75	.75	.75	.75	.76	.78	.81
% Increase		0.0%	0.0%	0.0%	1.3%	2.6%	3.8%
20+ hcf	1.15	1.15	1.15	1.15	1.17	1.20	1.24
% Increase		0.0%	0.0%	0.0%	1.7%	2.6%	3.3%

MONTHLY CAPACITY CHARGE BY METER SIZE						
Meter Size	2003	2004	2005	2006	2007	2008
5/8 & 3/4"	6.50	8.11	8.93	9.12	9.31	9.50
1 Inch *	6.50	8.11	8.93	9.12	9.31	9.50
1-1/2 Inch *	15.00	16.50	18.15	19.96	21.96	24.15
2 INCH *	21.00	23.10	25.41	27.95	30.74	33.82
3 INCH *	30.00	33.00	36.3	39.93	43.92	48.31

LITIGATION CHARGE PER METER SIZE				
5/8-3/4"	1 Inch	1-1/2 Inch	2 INCH	3 INCH
3.16	3.16	7.18	9.96	13.96

\* Although the analysis demonstrates justification for raising the monthly meter fee for sizes 1 ½ inch and greater by up to 100%, it is recommended that these fee increases be held at 10% per year.

The District has concluded that it would like to detail the cost of the water rights litigation in its customer's rates and charges. The tables titled "LITIGATION CHARGE PER METER SIZE" detail the litigation cost per meter size on a monthly basis. These charges are included in the monthly capacity charges detailed above.

JULY 9, 2014

ITEM E-2

ATTACHMENT C

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2003-95**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO  
(1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;  
(2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND  
(3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES**

**WHEREAS**, it is a major responsibility of the Nipomo Community Services District (District) to maintain adequate levels of revenue, equitably collected from all classes of utility customers, to meet the District's financial commitments; and

**WHEREAS**, the District commissioned Perry R. Louck, Certified Public Accountant, to perform a WATER AND WASTEWATER RATE STUDY UPDATE (herein the STUDY). The STUDY includes an analysis of both the water and wastewater operating and non operating rates and charges for the Town Division and Blacklake Divisions. The intent of the STUDY is to assess the District's revenue requirements and to provide an independent evaluation of the equity of the District's current rate structure. The STUDY further identifies a new rate structure for the Town Division and Blacklake Division that enables the District to meet revenue requirements, provide for replacement of aging facilities and to maintain fairness and equity among ratepayers; and

**WHEREAS**, the STUDY was received and filed on December 20, 2002 and has been available for public inspection at the District office since that date; and

**WHEREAS**, based upon facts and analysis presented by Perry R. Louck, the STUDY, the Staff Report, and public testimony received, the Board of Directors finds:

- A. The public meetings adopting this Ordinance have been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act); and
- B. That notice has been provided pursuant to Government Code Sections 54354.5 and 66016; and
- C. The fees, rates and charges that are the subject of this Ordinance do not exceed the estimated reasonable cost of providing the services for which the fees and/or charge or charges are imposed; and
- D. That the public benefits from the logical, long-range approach to financing of public facilities:

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

**Section 1. Authority.**

This Ordinance is enacted pursuant to Government Code Sections 61600(a) and (b), 61621, 61621.5, 61623, 66013 and 66016.

**Section 2.**

Appendices A and B to Chapter 3.03 of the District Code are repealed in their entirety and replaced with the bimonthly rates and charges reflected in Exhibit A attached hereto and incorporated into this Ordinance by reference.

.IPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2003-95

AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO  
(1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;  
(2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND  
(3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE 2

**Section 3.**

Appendix A to Chapter 3.04 is hereby repealed in its entirety and replaced with the capacity charges reflected in Exhibit B attached hereto and incorporated into this Ordinance by reference.

**Section 4.**

Exhibit B to Chapter 4.12 of the District Code is hereby repealed in its entirety and replaced with Appendix A the bimonthly rates and charges reflected in Exhibit C attached hereto and incorporated into this Ordinance by reference.

**Section 5.**

Exhibit A to Chapter 4.12 is hereby repealed in its entirety and replaced with Appendix B the capacity charges reflected in Exhibit D attached hereto and incorporated in this Ordinance by reference.

**Section 6.**

Section 3.04.140(B)(2) and (3), Private Fire Service monthly standby charges and capacity charges are reaffirmed by this Ordinance.

**Section 7.**

Section 3.04.050 (A), (C) and (D) reference to installation fee shall be removed.

**Section 8.**

Section 3.03.180 (B)(2) is repealed in its entirety and replaced with the following:

District sewer charges are set forth in Appendix A of Chapter 4.12 of the District Code.

**Section 9. Repeal of Prior Ordinances and Resolutions**

All Ordinances, sections of Ordinances and Resolutions that are inconsistent with this ordinance are hereby repealed.

**Section 10. Effect of Repeal on Past Actions and Obligations.**

This Ordinance does not affect prosecutions for Ordinance violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any Ordinance.

**Section 11. CEQA Findings**

The Board of Directors of the District finds that the fees and charges adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The Board of Directors further finds that

...NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2003-95

AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO

- (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;
- (2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND
- (3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE 3

the adoption of the Rules and Regulations established by this Ordinance fall within the activities described in Section 15378(b)(3) of the CEQA Guidelines which are deemed not to be "projects" for the purposes of CEQA, because it can be seen with certainty that the adoption of the Rules and Regulations may have a significant effect on the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

**Section 12. Severance Clause.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance.

The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

**Section 13. Effect of Headings in Ordinance.**

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

**Section 14. Effective Date.**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage it shall be posted in three (3) public places with the names of the members voting for and against the Ordinance and shall remain posted thereafter for at least one (1) week. The Ordinance shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in the Five Cities Times Press Recorder.

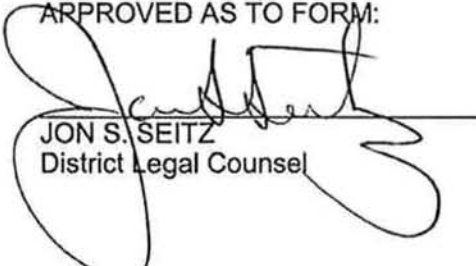
Introduced at a special meeting of the Board of Directors held on December 20, 2002 and passed and adopted by the Board of Directors of the Nipomo Community Services District on the day of January 8, 2003, by the following roll call vote, to wit:

AYES: Directors Vierheilg, Blair, Trotter, Wirsing, and Winn  
NOES: None  
ABSENT: None  
ABSTAINING: None

  
Michael Winn, President of the Board  
Nipomo Community Services District

ATTEST:

  
DONNA K. JOHNSON  
Secretary to the Board

APPROVED AS TO FORM:  
  
JON S. SEITZ  
District Legal Counsel



**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2003-95**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO**

- (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;  
(2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND  
(3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE 4

**EXHIBIT A**

**WATER RATES AND CHARGES**

**APPENDIX A TO CHAPTER 3.03**

**Bi-Monthly Minimum Charge**

The bi-monthly minimum charge will take effect 30 days after Ordinance is passed. The future increases shall take effect on **January 1<sup>st</sup>** of each year.

**TOWN DIVISION\***

SIZE OF METER	2003	2004	2005	2006	2007	2008
1 INCH OR LESS	\$11.18	\$12.94	\$14.72	\$14.86	\$15.00	\$15.14
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ INCH	\$25.34	\$29.30	\$33.66	\$38.46	\$43.74	\$49.56
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 INCH	\$35.18	\$40.68	\$46.76	\$53.42	\$60.76	\$68.82
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$19.92	\$19.92
3 INCH	\$49.28	\$57.00	\$65.50	\$74.84	\$85.09	\$96.42
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 INCH	\$64.00	\$74.00	\$85.00	\$97.10	\$110.40	\$125.06
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 INCH	\$105.42	\$121.92	\$140.08	\$160.04	\$182.00	\$206.16
Litigation Charge	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58
8 INCH	\$120.42	\$139.25	\$160.00	\$182.82	\$207.90	\$235.50
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

**BLACKLAKE DIVISION\***

SIZE OF METER	2003	2004	2005	2006	2007	2008
1 INCH OR LESS	\$6.68	\$9.90	\$11.54	\$11.92	\$12.30	\$12.68
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ INCH	\$15.64	\$18.64	\$21.94	\$25.56	\$29.56	\$33.94
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 INCH	\$22.08	\$26.28	\$30.90	\$35.98	\$41.56	\$47.72
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$19.92	\$19.92
3 INCH	\$32.08	\$38.08	\$44.68	\$51.94	\$59.92	\$68.70
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 INCH	\$54.00	\$63.00	\$72.90	\$83.80	\$95.76	\$108.94
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 INCH	\$90.42	\$105.42	\$121.92	\$131.58	\$151.54	\$173.50
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

\*The above bi-monthly minimum charge reflects the adjusted rate established by Ordinance 2003-95 to meet the district's financial obligations relating to the lawsuit entitled Santa Maria Valley Water Conservation District v. the City of Santa Maria, the Nipomo Community Services District, et al. When the district financial obligations regarding this lawsuit have been satisfied, the above litigation charge will be removed.

.NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2003-95

- AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
- (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;
  - (2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND
  - (3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE 5

**EXHIBT A (CONTINUED)**

**APPENDIX B TO CHAPTER 3.03**

**Bi-Monthly Water Rates**

The bi-monthly water rates will take effect 30 days after Ordinance is passed. The future increases shall take effect on **January 1<sup>st</sup>** of each year.

**TOWN DIVISION**

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>0 – 40 UNITS</b>	\$0.95	\$1.01	\$1.07	\$1.08	\$1.10	\$1.10	\$1.10
<b>OVER 40 UNITS</b>	\$1.42	\$1.51	\$1.64	\$1.65	\$1.66	\$1.67	\$1.68

**BLACKLAKE DIVISION**

All increases shall take effect on **January 1<sup>st</sup>** of each year.

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>0 – 40 UNITS</b>	\$0.75	\$0.75	\$0.75	\$0.75	\$0.76	\$.81	\$0.81
<b>OVER 40 UNITS</b>	\$1.15	\$1.15	\$1.15	\$1.15	\$1.17	\$1.20	\$1.24

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2003-95**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO**  
 (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;  
 (2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND  
 (3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE 6

**EXHIBIT B**

**APPENDIX A TO CHAPTER 3.04**

Standard Schedule for Town Water Capacity and Connection Fees

The water capacity charge will take effect 60 days after Ordinance is passed. The future increases will take effect on July 1<sup>st</sup> of the year:

	<b>AWWA C701-88 CAPACITY GPM</b>	<b>CAPACITY EQUIVALENT</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
1 Inch or less	30	1.00	\$3,690.00	\$3,801.00	\$3,915.00	\$4,032.00	\$4,152.00
1 ½ Inch	100	3.33	\$12,287.70	\$12,657.33	\$13,036.95	\$13,426.56	\$13,826.16
2 Inch	160	5.33	\$19,667.70	\$20,259.33	\$20,866.95	\$21,490.56	\$22,130.16
3 Inch	350	11.67	\$43,062.30	\$44,357.67	\$45,688.05	\$47,053.44	\$48,453.84
4 Inch	600	20.00	\$73,800.00	\$76,020.00	\$78,300.00	\$80,640.00	\$83,040.00
6 Inch	1250	41.67	\$153,762.30	\$158,387.67	\$163,138.05	\$168,013.44	\$173,013.84

Standard Schedule for Meter Fees and Account Fees are established as follows:

<b>Meter Size</b>	<b>Meter Fee</b>	<b>Account Fee</b>
1 Inch or Less	\$275.00	\$10.00
1 ½ Inch	\$555.00	\$10.00
2 Inch	\$615.00	\$10.00
3 Inch or larger	At Cost	\$10.00

NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2003-95

- AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
- (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;
  - (2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND
  - (3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE 7

**EXHIBIT C**

Appendix to Chapter 4.12

Appendix A

Bi-Monthly Sewer User Fees

All increases shall take effect on **July 1<sup>st</sup>** of each year.

**TOWN DIVISION**

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>PER DUE</b>	\$36.86	\$37.22	\$37.60	\$37.98	\$38.78

Montecito Verde II Sewer Maintenance District      \$28.00 per DUE (See Footnote 1)

Footnote 1: Upon connection to the Town Division Wastewater Treatment Plant, the Montecito Verde II operation and maintenance charge shall be the same as the charges collected from sewer customers in the Town Division.

**BLACK LAKE DIVISION**

All increases shall take effect on **July 1<sup>st</sup>** of each year.

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>PER DUE</b>	\$48.30	\$50.70	\$53.24	\$55.90	\$56.86

NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2003-95

- AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
- (1) ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE;
  - (2) ESTABLISH CAPACITY CHARGES FOR WATER AND SEWER SERVICE; AND
  - (3) REAFFIRM PRIVATE FIRE SERVICE MONTHLY FEES AND CAPACITY CHARGES

PAGE 8

**EXHIBIT D**

Appendix B to Chapter 4.12

Cost of Sewer Capacity Charge – Town Division  
Per Dwelling Unit Equivalent (DUE)

The sewer capacity charge will take effect 60 days after Ordinance is passed. The future increases will take effect on July 1<sup>st</sup> of the year:

	2003	2004	2005	2006	2007
DUE	\$3,048.00	\$3,139.00	\$3,233.00	\$3,329.00	\$3,428.00

Note: Volunteers (properties within the Nipomo Sewer Project Assessment District) with existing structures or new construction replacing structures existing prior to 1985 and having no greater DUE will not have a sewer capacity charge. All other construction on volunteer property as zoned in 1985 shall have the option to pay the District sewer capacity charge, as defined above or \$2,100.00 per DUE.