

NIPOMO COMMUNITY SERVICES DISTRICT

AGENDA

REGULAR BOARD MEETING FEBRUARY 5, 1997 7:00 P.M.
BOARD ROOM 261 W. DANA STREET, SUITE 100 NIPOMO, CA

BOARD MEMBERS

KATHLEEN FAIRBANKS, **PRESIDENT**
ALEX MENDOZA, **VICE PRESIDENT**
AL SIMON, **DIRECTOR**
ROBERT BLAIR, **DIRECTOR**
GENE KAYE, **DIRECTOR**

STAFF

DOUGLAS JONES, **General Manager**
DONNA JOHNSON, **Secretary to the Board**
JON SEITZ, **General Counsel**

CALL TO ORDER AND FLAG SALUTE

ROLL CALL

APPROVAL OF MINUTES

1. REGULAR MEETING OF JANUARY 29, 1997

PUBLIC COMMENTS PERIOD

2. PUBLIC COMMENTS
Public comments on matters other than scheduled items. Presentations limited to three (3) minutes

BOARD ADMINISTRATION (The following may be discussed and acted on by the Board.)

3. WOODLAND DEVELOPMENT
Review possible in-basin water transfers
4. WEED ABATEMENT
Old Town Nipomo Assoc. request for weed abatement assistance
5. POMEROY ROAD WATER SERVICE REPLACEMENTS
Award bid to replace water services on Pomeroy Road
6. TRACT 1912 - LETTER OF CREDIT TIME EXTENSION
Request for extension of time with respect to the performance schedule for completion of the Blac. Lake Wastewater Treatment Facility.
7. CSDA-SLO CHAPTER BY-LAWS
Review and approve proposed changes in Local Chapter By-laws of Calif Special Dist. Assoc.

FINANCIAL REPORT

8. SECOND QUARTER FINANCIAL STATEMENTS
9. APPROVAL OF WARRANTS

OTHER BUSINESS

10. MANAGER'S REPORT
 1. CALIF RURAL WATER ASSOCIATION CONFERENCE
 2. SO CAL WATER CO RATE ADJUSTMENT INFO
 3. OFFICE BUILDING STATUS
 4. CSDA & LAO INFO ON PROP 218
 5. SPECIAL ELECTION SCHEDULE - PROP 218
 6. COUNTY WRAC MEETING
 7. GOVERNOR'S CORRESPONDENCE ON AB 2797
11. DIRECTORS COMMENTS
12. PUBLIC COMMENTS

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL

1. Existing litigation GC§ 54956.9
NCSD vs. Shell Oil, et. al. Case No. CV 077387
2. Existing Litigation, Pratt vs. NCSD Case No. CV 79715 GC§54956
3. Real Property Negotiation (Walsh), GC§ 54956.8

*GC§ refers to Government Code Sections

ADJOURN

NIPOMO COMMUNITY SERVICES DISTRICT MINUTES

John S

SPECIAL BOARD MEETING JANUARY 29, 1997 7:00 P.M.
BOARD ROOM 261 W. DANA STREET, SUITE 100 NIPOMO, CA

BOARD MEMBERS

KATHLEEN FAIRBANKS, **PRESIDENT**
ALEX MENDOZA, **VICE PRESIDENT**
AL SIMON, **DIRECTOR**
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STAFF

DOUGLAS JONES, **General Manager**
DONNA JOHNSON, **Secretary to the Board**
JON SEITZ, **General Counsel**

CALL TO ORDER AND FLAG SALUTE

In the absence of President Fairbanks, Vice-President Mendoza called the January 29, 1997 Special Meeting to order at 7:06 p.m. and led the flag salute.

ROLL CALL

At Roll Call the following Board members were present:
Directors Kaye, Blair Simon, and Mendoza

APPROVAL OF MINUTES

1. REGULAR MEETING OF JAN. 8, 1997

There were no public comments concerning the Minutes.

Upon motion of Director Kaye, seconded by Director Blair, the Board unanimously approved the Minutes of the January 8, 1997 meeting.

PUBLIC COMMENTS PERIOD

2. PUBLIC COMMENTS
Public comments on matters other than scheduled items. Presentations limited to three (3) minutes

Vice-President Mendoza opened the meeting to Public Comments:

Jack Stoddard - President of the Black Lake Advisory Committee to NCSD spoke concerning the Oct. 16, 1996 meeting Items 8.6.1 - 8.9 of their minutes.

Pat Spear, representing Charles A. Pratt, spoke concerning a resolution to eliminate double capacity fees.

Haythem Dawlett, Blacklake resident and member of the Blacklake Advisory Committee, reiterated the request from Mr. Spear.

President Fairbanks arrived at 7:14 p.m. and resumed the chair.

BOARD ADMINISTRATION (The following may be discussed and acted on by the Board.)

3. INVESTMENT POLICY
Review the District's 1996 Annual Investment Report

Mr. Jones explained that the District adopted an Investment Policy on Feb. 21, 1996. Pursuant to GS §53646 the Board received the annual report. There were no public comments concerning the Investment policy. Upon motion of Director Simon and seconded by Director Blair, the Board unanimously agreed to receive and file the annual report of the 1996 Investment Policy for Nipomo Community Services District.

FINANCIAL REPORT

4. Approval of Warrants
Upon motion of Director Mendoza, seconded by Director Kaye,
the Board approved the Warrants presented at the January 29, 1997 meeting.

OTHER BUSINESS

5. MANAGER'S REPORT

Manager Doug Jones presented information of the following items:

1. Small Claims Court
In the Hernandez Catering Truck case, the court awards in the District's favor.
Partial payment has been made and arrangements made for the remainder.
2. New employee
New employees will begin February 3. One is full time and one is temporary.

6. DIRECTORS COMMENTS

Mr. Blair said that Beverly Chapman contacted him concerning the roads and also about weed abatement.

Mr. Kaye reported on the seminar he attended in Ontario.

7. PUBLIC COMMENTS
There were no public comments.

District Legal Counsel, Jon Seitz, informed the Board that a Closed Session was necessary to discuss the following case.

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL

1. Existing Litigation, Pratt vs. NCSD Case No. CV 79715 GC§54956

*GC§ refers to Government Code Sections

The Board came back into open session and reported that they had instructed District legal counsel on deal points.

ADJOURN

President Fairbanks adjourned the meeting at 9:15 p.m.

AGENDA ITEM
FEB 5 1997

3

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: FEBRUARY 5, 1997

WOODLAND PROJECT

At the January 8, 1997 Board meeting, your Honorable Board instructed staff to contact a representative of the Woodland Project to see if they would make a presentation to your Honorable Board on their proposed water supply for their project. Staff contacted Keith MacGregor, a principle of the project. He indicated that it is premature to report on the project since the environmental impact report has not even begun. He indicated that once this report is completed, it might be a more appropriate time to bring this issue before the Board.

The proposal of purchasing water from the City of Santa Maria, is a preliminary concept. No formal agreement has been completed.

C:\W:\BD\woodland.DOC

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: FEBRUARY 5, 1997

AGENDA ITEM
FEB 5 1997



WEED ABATEMENT

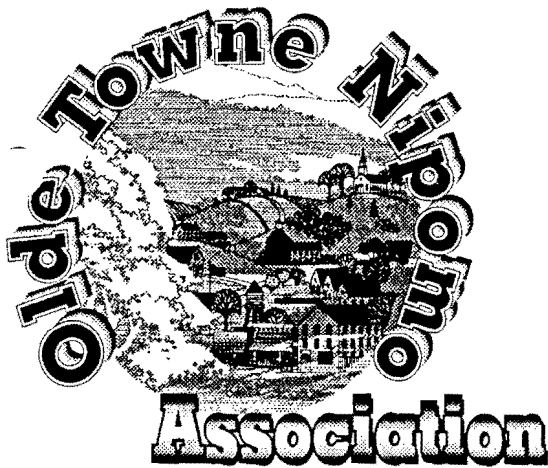
Mrs. Kathy Kubiak, chairperson of the Old Town Nipomo Association, has requested assistance from the District to develop a weed abatement program to rid empty lots of weeds and potential fire hazards.

Presently, the District exercises some of its powers under Government Code § 61600 to provide domestic water and distribution services, sewer collection and wastewater disposal services, drainage and streetlighting. Under Section 61600 of the Government Code, the District may exercise any or all of the following powers:

1. Provide water service
2. Provide sewer service
3. Provide garbage service
4. Provide fire protection
5. Provide recreation
6. Provide streetlighting
7. Provide mosquito abatement
8. Provide police services
9. Provide library services
10. Provide street improvements, including bridges, culverts, gutters, drains and associated works.
11. Provide electrical services
12. Provide ambulance services
13. Provide public airports and landing places
14. Provide transportation services
15. Provide graffiti abatement
16. Provide flood control and drainage

A weed abatement program would probably fall under the category of providing fire service. Presently, the Board does not have the powers for providing fire service. If the Board so desires a request must be submitted to LAFCO for approval to provide fire protection.

Presently, there is not a revenue base to support a fire operations associated with developing a weed abatement program. If your Honorable Board wishes to proceed on this matter, it would first have to request such powers from LAFCO and then go to a vote for an assessment to establish a funding program for funding the fire related weed abatement program.



Olde Towne Nipomo Assoc.
Post Office Box 1171
Nipomo, California 93444

Doug Jones
Nipomo Community Services District
261 W. Dana Street, Suite 100
Nipomo, CA 93444

January 15, 1997

Dear Mr. Jones:

Thank you very much for inviting me to present the Olde Towne Nipomo Association's request for assistance in developing a weed abatement program at the Board meeting of August 21, 1996. We would very much appreciate a letter advising us as to the Board's decision on our request.

The process of creating a design plan for the downtown area is underway, and in the spring we hope to see the widening of Tefft Street begin. We would like you and the Board of Directors to participate in any related decision-making processes that might affect District concerns. Additionally, May 17 is the date we have selected for our Spring Clean-up project, and we would like to know what further steps we should take to help the NCS D develop and implement this program in cooperation with our organization. We request that a special meeting with the NCS D Board and yourself be arranged to discuss these matters. Please contact me regarding a date for this meeting as soon as possible. Thank you for your time.

Sincerely,

Kathy Kubiak, Chairperson

c: Al Simon
Kathleen Fairbanks
Alex Mendoza
Robert Blair
Gene Kay

RECEIVED

JAN 27 1997

NIPOMO COMMUNITY SERVICES DISTRICT

Section
61601.27. / Approval of district formation and powers; San Joaquin County local agency formation commission.

Section
61601.28. Ahmanson Ranch Community Services District; additional powers.
61601.30. Wallace Community Services District; liquefied petroleum gas service authority; expiration of authority.

§ 61600. Enumeration of purposes

A district formed under this law may exercise the powers granted for any of the following purposes designated in the petition for formation of the district and for any other of the following purposes that the district shall adopt:

(a) To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation.

(b) The collection, treatment, or disposal of sewage, waste, and storm water of the district and its inhabitants.

(c) The collection or disposal of garbage or refuse matter.

(d) Protection against fire.

(e) Public recreation including, but not limited to, aquatic parks and recreational harbors, equestrian trails, playgrounds, golf courses, swimming pools, or recreational buildings.

(f) Street lighting.

(g) Mosquito abatement.

(h) The equipment and maintenance of a police department, other police protection, or other security services to protect and safeguard life and property.

(i) To acquire sites for, construct, and maintain library buildings, and to cooperate with other governmental agencies for library service.

(j) The constructing, opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the district, subject to the consent of the governing body of the county or city in which the improvement is to be made.

(k) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in subdivision (j), subject to the consent of the governing body of the county or city in which the improvement is to be made.

(l) The conversion of existing overhead electric and communication facilities to underground locations, which facilities are owned and operated by either a "public agency" or a "public utility," as defined in Section 5896.2 of the Streets and Highways Code, and to take proceedings for and to finance the cost of the conversion in accordance with Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code, subject to the consent of the public agency or public utility responsible for the owning, operation, and maintenance of the facilities. Nothing in this section gives a district formed under this law the power to install, own, or operate the facilities that are described in this subdivision.

(m) To contract for ambulance service to serve the residents of the district as convenience requires, if a majority of the voters in the district, voting in an election thereon, approve.

(n) To provide and maintain public airports and landing places for aerial traffic.

(o) To provide transportation services.

(p) To abate graffiti.

(q) To construct, maintain, and operate flood protection works and facilities, subject to the following conditions:

(1) The planning, design, construction, maintenance, and operation of flood protection works and facilities, or substantially similar works or facilities, is not within the authority of another public agency, except that a public agency and the district are not precluded from entering into agreements for the district to provide those services.

Additions or changes indicated by underline; deletions by asterisks * * *

(2) The governing body of the city or county in which the services specified in paragraph provided by the district has consented to the district providing those services.
(Added by Stats.1986, c. 195, § 1.5. Amended by Stats.1991, c. 1226 (S.B.767) | Stats.1. (A.B.3457), § 1; Stats.1993, c. 395 (A.B.1598), § 1; Stats.1993, c. 434 (A.B.781), Stats.1994, (S.B.1397), § 5; Stats.1996, c. 903 (S.B.2137), § 1.)

Historical and Statutory Notes

1983 Legislation

Former § 61600, added by Stats.1955, c. 1746, p. 3213, § 8, amended by Stats.1955, c. 1487, p. 2699, § 2; Stats. 1955, c. 1677, p. 3012, § 2; Stats.1957, c. 66, p. 637, § 11; Stats. 1957, c. 1265, p. 2569, § 1; Stats.1959, c. 653, p. 2629, § 1; Stats. 1959, c. 1600, p. 3970, § 1; Stats.1963, c. 2067, p. 4315, § 6; Stats.1968, c. 338, p. 723, § 1; Stats. 1971, c. 182, p. 249, § 2, eff. June 25, 1971; Stats.1972, c. 258, p. 508, § 1; Stats. 1979, c. 167, p. 352, § 2, eff. June 27, 1979; Stats.1980, c. 296, p. 622, § 2, derived from former § 60600, added by Stats.1951, c. 1711, p. 4004, § 1, relating to the enumeration of purposes, was repealed by Stats.1983, c. 256, § 14.

1986 Legislation

Section 1 of Stats.1986, c. 195, provided:

"It is the intent of the Legislature to retransfer the provisions which state the powers of the affected local entities from the Public Contract Code to the codes where these provisions originated.

"Consistent with the intent in transferring these and other sections back to the Public Contract Code, it is not the intent of the Legislature, in retransferring these sections, to effect any substantive change in the law as it

existed prior to the initial transfer to the Public Contract Code."

1991 Legislation

Amendments of this section by §§ 9.1, 9.3, and 9.5 of Stats.1991, c. 1226, failed to become operative under the provisions of § 71 of that Act.

1993 Legislation

Section affected by two or more acts at the same session of the legislature, see Government Code § 9605.

Derivation: Pub. Con. C. former § 20681, added by Stats.1983, c. 256, § 86.

Gov.C. former § 61600, added by Stats.1955, c. 1746, p. 3213, § 8, amended by Stats.1955, c. 1487, p. 2699, § 2; Stats.1955, c. 1677, p. 3012, § 2; Stats.1957, c. 66, p. 637, § 11; Stats. 1957, c. 1265, p. 2569, § 1; Stats.1959, c. 653, p. 2629, § 1; Stats. 1959, c. 1600, p. 3970, § 1; Stats.1963, c. 2067, p. 4315, § 6; Stats.1968, c. 338, p. 723, § 1; Stats.1971, c. 182, p. 249, § 2, eff. June 25, 1971; Stats. 1972, c. 258, p. 508, § 1; Stats. 1979, c. 167, p. 352, § 2, eff. June 27, 1979; Stats.1980, c. 296, p. 622, § 2.

Gov.C. former § 60600, added by Stats.1951, c. 1711, p. 4004, § 1.

Notes of Decisions

Sewage 4

4. Sewage

Community services district authorized to collect, treat and dispose of sewage had the power to allocate permits

for sewer connections so as to exclude hookups for senior citizen housing units, even though § 65852.1 and county ordinance encouraged creation of such units. Getz v. Pebble Beach Community Services Dist. (App. 6 Dist. 1990) 268 Cal.Rptr. 76, 219 Cal.App.3d 229.

§ 61601. Special election to adopt additional purposes; effect of favorable vote

Whenever the board determines by resolution that it is feasible, economically sound, and in the public interest * * * for the district to exercise its powers for any of the purposes specified in Section 61600 which are not designated in the petition for formation of the district, the board may call a special district election and submit to the voters of the district, or submit to them at the next general district election, the question of whether the district should adopt the additional purpose or purposes. If a majority of the * * * voters voting on the proposition * * * vote in favor of the adoption of the additional purpose or purposes, then the * * * district may * * * exercise those powers. The district may divest itself of the power to carry on any purpose in the same manner.

(Amended by Stats.1989, c. 789, § 6.)

§ 61601.1. Abatement of graffiti

(a) "Abatement," for the purposes of this section, includes the removal and prevention of graffiti, antigraffiti education, and restitution to any property owner for any injury or damage caused by the removal of graffiti from the property.

(b) A district that is authorized to abate graffiti may:

(1) Remove or contract for the removal of graffiti from any public or private property within its boundaries.

(2) Indemnify or compensate any property owner for any injury or damage caused by the removal of graffiti from property.

Additions or changes indicated by underline; deletions by asterisks * * *

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: FEBRUARY 5, 1997

WATER SERVICES REPLACEMENT
POMEROY ROAD

The District has requested bids to replace approximately 30 water service lines along Pomeroy Road between Tefft Street and Waypoint Way. Bids were requested from DeChance Construction Co., Baker Construction Co., and TLC Backhoe. The bid proposals were to be returned to the District office by 4:30 p.m., Jan. 28, 1997. The District received only one bid proposal from TLC Backhoe in the amount of \$18,400.00.

TLC Backhoe was the low bidder in replacing the water service lines in Thompson Road Estates, the Folkerts Oaks Subdivision, the Summit Station project, and also the steel water line replacement in the Price St. area.

Staff feels that the bid from TLC for replacing the water lines in Pomeroy is a reasonable bid. Staff recommends that the work be awarded to TLC Backhoe. The District has budgeted \$25,000 in this year's budget for this work.

Enclosed, for the Board's consideration, is a resolution awarding the contract to TLC Backhoe for replacing water lines in Pomeroy Road.

C:\W:\pomrybid.DOC

NIPOMO COMMUNITY SERVICES DISTRICT
261 WEST DANA STREET, SUITE 101
POST OFFICE BOX 326 NIPOMO, CA 93444
(805) 929-1133 FAX (805) 929-1932

**REQUEST FOR PROPOSALS
REPLACE WATER SERVICES**

The Nipomo Community Services District is requesting bid proposals to replace approximately 30 water services along Pomeroy Road, between Tefft Street and Waypoint Drive, in Nipomo, California.

PRESENT SERVICES

- From the water main to the meter box - One-inch polybutylene pipe.

REPLACEMENT NEEDED

- Replace with one-inch copper tubing.
- The Corporation Stop will remain in place but a new fitting and a ball type angle meter stop (FORD BA43-444W) is required.

CONTRACTOR WILL SUPPLY

- All necessary materials - copper tubing, associated fittings and a ball type angle meter stop (FORD BA43-444W).
- Back-filling base, compaction and AC material for the replacement of the roadway.
- Labor, equipment and tools to replace these services.

CONTRACTOR MUST

- Provide vehicle traffic control.
-
- Remove approximately 4-foot samples of the existing polybutylene pipe with the couplings attached.
- The pipe samples must be labeled with service address and meter number.
- Be responsible for proper compaction for each of the sites.
- Provide proof of appropriate contractor's license and insurance.

THE BID

- The bid must be on the form provided by NCSD.
- Break out the costs for replacing a single service, on the long and short sides of the road.
- For your information, a list of services address to be replaced is attached.
It is suggested that the contractor be familiar with the area before bidding this project.

DISTRICT AND CONTRACTOR

Contractor and District will enter into an agreement before work begins.

Sealed proposals will be received at the Nipomo Community Services District office at 261 WEST DANA STREET, SUITE 100, NIPOMO, CA 93444 until 4:30 p.m. on January 28, 1997.

NIPOMO COMMUNITY SERVICES DISTRICT
WATER SERVICE REPLACEMENT BID PROPOSAL SHEET

The following quantity of each category is inserted for bid purposes only. The number may vary depending on the actual number in the field.

<u>CATEGORY</u>	<u>EST. QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
Single service installation LONG SIDE	20	<u>720</u>	<u>14,400</u>
Single service installation SHORT SIDE	10	<u>400</u>	<u>4,000</u>
		TOTAL	<u>18,400</u>

TLC Backhoe Service Todd Prandall 1-25-97
 CONTRACTOR SIGNATURE DATE

**NIPOMO COMMUNITY SERVICES
RESOLUTION NO. 97-TLC**

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AWARDING THE CONTRACT TO T.L.C. BACKHOE
FOR REPLACING WATER SERVICES IN POMEROY ROAD**

WHEREAS, the Board of Directors of the Nipomo Community Services District ("DISTRICT") is desirous of replacing old water lines in this distribution system; and

WHEREAS, the DISTRICT has requested bids to replace the water services and said bids were open on January 28, 1997 at 4:30 p.m.; and

WHEREAS, only one bid was received and the apparent responsive and reliable bid was from T.L.C. Backhoe in the amount of \$ 18,400.00; and

WHEREAS, replacement of water services falls into statutory exemption as set forth by Public Resources Code/Division 13 Environmental Quality Chapter 2.6 General / § 21080.21 Pipeline Projects.

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

- 1) Finds the replacement of water services falls into statutory exemption as set forth by Public Resources Code\Division 13 Environmental Quality Chapter 2.6 General \ § 21080.21 Pipeline Projects
- 2) The contract for replacement of water services be awarded to T.L.C. Backhoe in the amount of \$18,400.00.
- 3) The President is instructed to execute the contract in behalf of the District.

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

AYES: Directors _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

the foregoing resolution is hereby adopted this 5th day of February 1997.

Kathleen Fairbanks, Vice President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
General Counsel

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: FEBRUARY 5, 1997

BLACK LAKE TRACT 1912
LETTER OF CREDIT TIME EXTENSION

The District received a request from Brad Brechwald of John Wallace & Associates, representing Tract 1912, requesting a change in the performance schedule of Imperial Bank's Letter of Credit with respect to completion of the Blacklake Wastewater Treatment Facility.

On page three (3) of the Letter of Credit, (see attached) Item No. 3 under Performance Schedule, indicates that the Blacklake Sewer Treatment Plant expansion shall be completed on or before February 21, 1997 or prior to final inspection of the 25th home built. A request is being made to change the February 21, 1997 to October 21, 1997.

The existing wastewater treatment plant is operating at or near its' capacity. Therefore, the condition of the "25th house final inspection" should not be exceeded prior to the treatment plant expansion being completed and operational. Approximately nineteen or twenty homes have received final inspection. The District has received capacity fees for 54 lots and has set 46 meters (of which 10 are locked) in Phase 1 and Phase 2 of Tract 1912. Eleven (11) accounts are presently in customer names. The developer and engineer are aware that no more than 25 homes shall receive final inspection prior to the sewer treatment plant expansion being completed, but they are requesting the earliest completion date be changed to Oct. 21, 1997 from Feb. 21, 1997.

Mr. Brechwald has also pointed out that under the Performance Schedule for the off-site water improvements, (Item # 4) has not been complied with due to the existing litigation.

It is staff's recommendation that your Honorable Board adjust the Performance Schedule of the Letter of Credit for Items No. 3 (Compliance date of February 21, 1997) and Item No. 4 (Compliance date of May 31, 1996) to a new Compliance date of October 21, 1997 for both Items No. 3 & 4 and reaffirm that no more than 25 homes shall receive final inspection until the sewer plant expansion is completed. If a 26th home receives final inspection from the County, the District will exercise paragraph No. 1 of the Letter of Credit.

Upon the Board's approval, staff will notify Imperial Bank to change the dates as mentioned above.



John L. Wallace & Associates
Civil Engineering • Surveying • Planning

MEMORANDUM

Date: 1-27-97

Job Number: 259.01(64)

To: Mr. Doug Jones Nipomo Community Services District P.O. Box 326 Nipomo, CA. 93444		From: Brad Brechwald John L. Wallace and Associates 4115 Broad Street, Suite B-5 San Luis Obispo, California 93401	
Phone:	Fax: 929-1932	Phone: (805) 544-4011	Fax: (805) 544-4294

Subject: Black Lake: Tract 1912, WWTP Expansion/Water Letter of Credit

Message: As discussed, Blacklake Estates Partners is requesting that NCSD recognize and approve the need for an extension of Item 3 of the performance schedule within Letter of Credit No. SB10010896 relative to the completion of the sewer treatment plant expansion by February 21, 1997. As you are aware, site clearance and grading of the ponds have been completed to date. The pond liner and retaining walls have not been constructed primarily due to the amount of rainfall over the past two months. It is our understanding that this item will be scheduled to be heard by the NCSD Board of Directors at their February 5, 1997 meeting. Attached is a fax from Imperial Bank indicating that NCSD will need to send the request amending the performance criteria, as approved by the Board of Directors.

In order to avoid amending the criteria again, we recommend the date to be extended to October 21, 1997 and the sewer plant shall be substantially complete in accordance with the requirements of NCSD by occupancy of the 25th home.

Also, as you are aware, item 4 of the performance schedule within the same letter of credit cannot be complied with until a resolution to the lawsuit filed by Mr. Pratt is accomplished. This should establish the final alignment or requirements for the intertie, if any. Please keep us informed of any changes in the status of this lawsuit and how it may affect the progress of Tract 1912.

Please call if you need any additional information.

cc. Carlo Alfano, Blacklake Estates Partners

Sent Via:	<input checked="" type="checkbox"/> Fax	<input type="checkbox"/> Mail	<input type="checkbox"/> Hand Deliver	<input type="checkbox"/> Overnight
Originals Mailed:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Number of Pages (including cover): 2	



FAX COVER SHEET

Date: 1/25/97 Time Sent: 12:00 A.M. P.M.

T O	Name: <u>Brad Buchwald</u>
	Office/Department: <u>John Walker Assoc</u>
	Phone:
	FAX: <u>(805) 544-4294</u>

IMPERIAL BANK

F R O M	Name: <u>Pat Bowman</u>
	Office/Department: <u>REO DEPARTMENT</u>
	Phone: <u>(310) 338-2658</u>
	FAX: <u>(310) 338-6165</u>

Comments: Brad-
to change letter of credit I will need a letter from NCSD
requesting a change of language to Item No. 3 of the
Performance Schedule. You should insert the new revised home No.
& date and just ~~state~~ state the following:

" AT THE EARLIEST OF EITHER THE FINAL INSPECTION OF THE CONSTRUCTION OF THE
IN NAME OF _____, THE SEWER TREATMENT PLANT EXPANSION SHALL
BE COMPLETED IN COMPLIANCE WITH ORDINANCE'S REQUIREMENTS."

P.S. Have the off site water system
improvements been completed?

TOTAL NUMBER OF PAGES SENT (including Cover Sheet):



IMPERIAL BANK
California's Business Bank
Member FDIC

International Division

2015 Manhattan Beach Blvd.
Redondo Beach, CA 90278

456 Montgomery St.
4th Floor, Suite 420
San Francisco, CA 94104

SWIFT IMPBUS66
Telex: 3730628
Answer Back: Imperial INW

IRREVOCABLE STANDBY LETTER OF CREDIT NO. SB10010896 DATED: AUGUST 21, 1995

BENEFICIARY*****APPLICANT*****
NIPOMO COMMUNITY SERVICES DISTRICT* IMPERIAL MANAGEMENT, INC.
* 9920 S. LA CIENEGA BLVD.
* INGLEWOOD, CALIFORNIA 90301

*****AMOUNT*****
FOR PRESENTATION OF DOCUMENTS: *
25 JULY, 1999 AT OUR COUNTERS: *USD506,371.00
2015 MANHATTAN BEACH BLVD., 2ND FL. *U.S. DOLLAR CURRENCY
90278 *FIVE HUNDRED SIX THOUSAND
THREE HUNDRED SEVENTY ONE ONLY

BENEFICIARY IS HEREBY AUTHORIZED TO DRAW UP TO THE MAXIMUM OF USD506,371.00 AVAILABLE AT SIGHT WHEN ACCOMPANIED BY A SIGHT DRAFT IN THE FORM OF EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF AND OF THE FOLLOWING:

1. A SIGNED STATEMENT BY THE GENERAL MANAGER OF BENEFICIARY IN THE FORM OF EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF STATING THAT APPLICANT OR ITS SUCCESSORS AND ASSIGNS HAS DEFAULTED UNDER APPLICANT'S AGREEMENT WITH BENEFICIARY TO CONSTRUCT A WASTEWATER TREATMENT PLANT IN ACCORDANCE WITH EITHER (a) THE APPROVED PLANS AND SPECIFICATIONS FOR SUCH FACILITIES OR (b) THE PERFORMANCE SCHEDULE HEREINAFTER SET FORTH AND THE AMOUNT OF THE DRAWING REPRESENTS A GOOD FAITH ESTIMATE OF THE SUMS NECESSARY TO PERFORM AND COMPLETE THE IMPROVEMENTS AND OTHER OBLIGATIONS OF APPLICANT OR ITS SUCCESSORS AND ASSIGNS; OR
2. A SIGNED STATEMENT BY THE GENERAL MANAGER OF BENEFICIARY IN THE FORM OF EXHIBIT "C" ATTACHED HERETO AND MADE A PART HEREOF STATING THAT ISSUER HAS NOTIFIED BENEFICIARY THAT IT HAS ELECTED NOT TO RENEW THIS LETTER OF CREDIT FOR AN ADDITIONAL ONE YEAR PERIOD AND APPLICANT AND ITS SUCCESSORS AND ASSIGNS HAS NOT PROVIDED BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER FORM OF SECURITY ACCEPTABLE TO BENEFICIARY.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (UCP) Revision International Chamber of Commerce and governed by Bank

IMPERIAL BANK INTERNATIONAL

THIS PAGE 2 FORMS AN INTEGRAL PART OF SB10010896 DATED AUGUST 21, 1995

SPECIAL INSTRUCTIONS:

1. PARTIAL DRAWINGS ARE PERMITTED.

ISSUER HEREBY ACKNOWLEDGES, GUARANTEES AND PLEDGES THAT THE FUNDS NECESSARY TO MEET THE COMMITMENTS AND OBLIGATIONS OF THE APPLICANT IN THE AGGREGATE AMOUNT OF USD506,371.00 IS ON HAND AND AVAILABLE AND WILL REMAIN SO UNTIL THE FIRST TO OCCUR OF THE FOLLOWING: (a) THE COMMITMENTS AND OBLIGATIONS OF APPLICANT ARE COMPLETED AND THIS LETTER OF CREDIT IS RELEASED BY THE GENERAL MANAGER OF BENEFICIARY OR (b) THE EXPIRATION OF THIS LETTER OF CREDIT.

2. THIS LETTER OF CREDIT IS AN IRREVOCABLE COMMITMENT OF FUNDS WHICH IS NOT SUBJECT TO RECALL OR OFFSET BY ISSUER.

3. THIS LETTER OF CREDIT SHALL AUTOMATICALLY BE EXTENDED WITHOUT AMENDMENT FOR A PERIOD OF ONE YEAR FROM THE PRESENT AND ANY FUTURE EXPIRATION DATE, UNLESS SIXTY DAYS PRIOR TO ANY SUCH EXPIRATION DATE, THE ISSUER SHALL NOTIFY THE BENEFICIARY IN WRITING BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THAT ISSUER HAS ELECTED NOT TO RENEW THIS LETTER OF CREDIT. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE ULTIMATE EXPIRATION DATE OF THIS LETTER OF CREDIT SHALL BE JULY 25, 1999.

4. THE ISSUER HEREBY STIPULATES AND AGREES THAT NO CHANGE, EXTENSION OF TIME, ALTERATION OR ADDITION TO THE TERMS OF THE AGREEMENT BETWEEN APPLICANT OR ITS SUCCESSORS AND ASSIGNS AND BENEFICIARY SHALL AFFECT ISSUER'S OBLIGATIONS HEREUNDER.

5. THE ISSUER HEREBY FURTHER PLEDGES AND GUARANTEES TO IMMEDIATELY HONOR WITHOUT OBJECTION ANY DRAFT OR DEMAND OF THE GENERAL MANAGER OF THE BENEFICIARY UPON ITS PRESENTATION TO ISSUER IN ACCORDANCE WITH THE TERMS OF THIS LETTER OF CREDIT.

6. THIS LETTER OF CREDIT HAS BEEN EXECUTED AND DELIVERED IN AND SHALL BE INTERPRETED, CONSTRUED, ENFORCED PURSUANT TO AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA. ALL DUTIES AND OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN THE COUNTY OF SAN LUIS OBISPO AND SUCH COUNTY



THIS PAGE 3 FORMS AN INTEGRAL PART OF SB10010896 DATED AUGUST 21, 1995

SHALL BE THE VENUE OF ANY ACTION OR PROCEEDING THAT MY BE BROUGHT, ARISES OUT OF OR IS IN CONNECTION WITH THIS LETTER OF CREDIT.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICES FOR DOCUMENTARY LETTERS OF CREDIT (1993 REVISION), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

- 7. WITHIN SIX (6) WORKING HOURS OF RECEIPT OF BENEFICIARY'S STATEMENT AND DRAFT, ISSUER WILL MAKE PAYMENT AS DIRECTED BY THE BENEFICIARY. THE ISSUER WILL ACCEPT DEMANDS OR DRAFTS ON THIS LETTER OF CREDIT BY:

- A. BY CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED;
- OR
- B. PRESENTATION ON SITE AT 2015 MANHATTAN BEACH BOULEVARD, SECOND FLOOR, REDONDO BEACH, CALIFORNIA.

PERFORMANCE SCHEDULE:

- 1. PRIOR TO FINAL INSPECTION OF UP TO THREE HOMES, (INCLUDING MODEL HOMES), SITE-CLEARANCE OF THE SEWER TREATMENT PLANT EXPANSION SITE SHALL BE COMPLETED IN CONFORMANCE WITH BENEFICIARY'S REQUIREMENTS.
- 2. PRIOR TO FINAL INSPECTION OF THE 15TH (FIFTEENTH) HOME, THE FINISH GRADING OF THE PONDS AND THE SEWER SITE EXPANSION AREA SHALL BE COMPLETED AND IN CONFORMANCE WITH BENEFICIARY'S REQUIREMENTS.
- 3. AT THE EARLIEST OF EITHER THE FINAL INSPECTION OF THE CONSTRUCTIONS OF THE 25TH (TWENTY-FIFTH) HOME OR FEBRUARY 21, 1997, THE SEWER TREATMENT PLANT EXPANSION SHALL BE COMPLETED IN CONFORMANCE WITH BENEFICIARY'S REQUIREMENTS
- 4. AT THE EARLIER OF THE FINAL INSPECTION OF THE CONSTRUCTION OF THE 25TH HOME OR MAY 31, 1996, THE OFFSITE WATER SYSTEM IMPROVEMENTS SHALL BE COMPLETED IN CONFORMANCE WITH BENEFICIARY'S REQUIREMENTS.

AUTHORIZED SIGNATURE
ROMEO OCCEMIA
ASSISTANT VICE PRESIDENT

AUTHORIZED SIGNATURE
HERVÉ LACORNE
VPI OPERATIONS MANAGER

This L.C.P. Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Edition) International Chamber of Commerce, and shall be subject to any applicable law.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: FEBRUARY 5, 1997

CHANGES TO THE BY-LAWS OF THE SLO CSDA

The District received a letter from Kit Carter, President of the San Luis Obispo Chapter of the California Special District Association, proposing changes in the by-laws of the Association. The attached letter is self-explanatory. The proposed changes are summarized as follows:

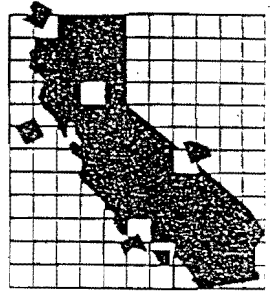
1. Eliminate the section that terminates a member for not paying dues.
2. District may use proxies to vote on issues.
3. Increase the Board of Directors from seven to nine, with overlapping terms.
4. Outline the procedure for electing directors to the Association.

Attached is the draft resolution (97-PROXY) for the Board's consideration. This allows the President of the Association to cast a conditional proxy vote, if members of a District's Board of Directors or executive staff are not present at a regular chapter meeting.

C:\W:\CSDA.DOC

CALIFORNIA SPECIAL DISTRICTS ASSOCIATION
SAN LUIS OBISPO COUNTY CHAPTER

4870 HERITAGE ROAD
PASO ROBLES, CA 93446
PHONE: (805)227-6133
FAX: (805) 227-6231
E-MAIL: hrcsd@thegrid.net



EXECUTIVE COMMITTEE

Laurie Ion
Carolyn Moffatt
Bill Van Orden
Jon Seitz
John Wallace

DIRECTORS

William Beser-Vice President
Byron Briley
Kit Carter-President/Secretary
William Engels
David Phillips

January 21, 1997

Member, San Luis Obispo Chapter
California Special District Association

Dear Member,

The purpose of this letter is threefold: (a) To propose changes in our Chapter By-Laws, (b) To request consideration by your Board of Directors to adopt a resolution that would facilitate quorums at Chapter meetings and (c) To request payment of your 1996-97 dues if you have not done so.

Changes In By-Laws

Our County Chapter of the California Special District Association was organized in 1991, and at that time we adopted our By-Laws. With the passage of time and with experience under our belt, there is a need to consider certain proposed amendments. These proposals are explained below, followed by the proposed formal language changes in the By-Laws.

1. Article 1, Section 7: Termination of Membership

This section essentially states that in the event dues are not paid in a timely manner, membership in the Chapter is automatically terminated.

This requirement has never been enforced and moreover, it is not practical because certain elections, such as representation of Special Districts on LAFCO, legally require a majority approval by *all* special districts in the county.

Our Chapter is the voice of special districts in our county and the integrity of our Chapter relies on the unity of *all* its members. Therefore, the question of dues should not be divisive and payment is proposed to be voluntary.

RECEIVED

JAN 24 1997

Presented below are the aforementioned sections of our By-Laws as they are currently set forth, followed by the proposed changes.

1. Article 2, Section 7. Termination of Membership

"Any member in arrears in the payment of dues for a period of two (2) months after said dues are delinquent, shall be notified in writing of such arrearage, and one month thereafter, if such dues shall have continued unpaid, shall not be entitled to vote as a member. Voting rights shall not be restored without paying off for current year dues."

Proposed Changes

Eliminate this section in its entirety.

2. Article 3, Section 3. Quorum

"A quorum at any of the meetings of the members shall consist of a majority for the Board of Directors of the Association or a majority of regular members who are in good standing. A members' proxy shall be counted to establish a majority of regular members."

Proposed Changes

Add the following sentence: "In order to establish a quorum for a general membership meeting, conditional proxies filed by members may be used by the President."

3. Article 4, Section 1. Number and Term

"The Board of Directors of the Association shall consist of seven (7) Directors. Each Director elected shall hold office for a term of two years with the terms staggered in order to overlap. Initial elections after approval of the first amended By-Laws shall have four Directors serving two year terms and three Directors serving one year terms. It is the intent of the membership of the Association that Directors be elected so as to reflect a broad geographical and varied classification of special districts."

Proposed Changes

"The Board of Directors of the Association shall consists of nine (9) Directors. Each Director elected shall hold office for a term of four years with the terms staggered in order to overlap. Initial elections shall have five Directors serving four year terms and four Directors serving two year terms. It is the intent of the membership of the Association that Directors be elected so as to reflect a broad geographical and varied classification of special districts."

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 97-PROXY**

**A RESOLUTION OF THE
BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING A CONDITIONAL PROXY FOR GENERAL MEETINGS
OF THE SAN LUIS OBISPO COUNTY CHAPTER OF THE
CALIFORNIA SPECIAL DISTRICT ASSOCIATION**

WHEREAS, the Board of Directors of the Nipomo Community Services District (herein referred to as "District"), is a Special District under the laws of the State of California, whose boundaries are within the County of San Luis Obispo; and

WHEREAS, the San Luis Obispo County Chapter of the California Special District Association (herein "CSDA") has the authority to: (1) appoint representatives to County Boards and Commissions on behalf of Special Districts within the County of San Luis Obispo; and (2) enact and approve regulations and agreements binding on all Special Districts within the County of San Luis Obispo; and

WHEREAS, from time to time, the San Luis Obispo County Chapter of the CSDA holds general meetings for the purpose of taking official action of behalf of the Special Districts within the County of San Luis Obispo; and

WHEREAS, from time to time, it is difficult for District to attend the general meeting of the San Luis Obispo County Chapter of the CSDA to take action; and

WHEREAS, District desires to issue the President of the Board of Directors of the San Luis Obispo County Chapter of the CSDA its proxy for the purposes of establishing a quorum and for voting on proposals at the general meetings of the San Luis Obispo County Chapter of the CSDA.

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

1. On condition that a District delegate does not attend a general meeting of the San Luis Obispo County Chapter of the CSDA, District hereby appoints the President of the San Luis Obispo County Chapter of the CSDA Board of Directors to act as its proxy holder at general meetings.
2. The President of the San Luis Obispo county Chapter of the CSDA Board shall:
 - a. Use this proxy to evidence District's presence at all general meetings of the San Luis Obispo County Chapter of the CSDA in order to establish a quorum of the Districts;
 - b. Except as provided in Section 3, below, cast the District's vote as an abstention for any proposal, including the election of members of the Board of directors, and delegates to particular commissions and Boards;

TO: BOARD OF DIRECTORS

FROM: LISA BOGNUDA

DATE: FEBRUARY 5, 1997

SECOND QUARTER FINANCIAL REPORT
SIX MONTHS ENDED DECEMBER 31, 1996

Attached is the Balance Sheet as of December 31, 1996 and the Income Statement for the six months ended December 31, 1996 for each Fund. Also, attached is the summary of cash balances as of December 31, 1996 by Fund.

The fiscal year is 50% complete with six months remaining. Revenues have met or exceeded the 50% mark. Most expenditures are within the 50% range and the total operating expenditures for the six months is at 46%. As addressed in the first quarter report, engineering and repair and maintenance have exceeded their budgeted amounts due to unforeseen expenditures.

For the six month period, the District has collected \$105,320 in Water Capacity Fees and \$183,400 in Sewer Capacity Fees. The District has also received \$110,000 in polybutylene litigation settlements.

The disbursements for the new office building are being charged against the Property Tax Fund. The costs are accumulated as Work In Process on the Balance Sheet. The office building will be capitalized when completed.

NIPOMO COMMUNITY SERVICES DISTRICT
SUMMARY OF REVENUES AND EXPENSES BY FUND
SIX MONTHS ENDING DECEMBER 31, 1996

FUND	FUND #	YTD REVENUE	YTD EXPENSES	YTD NET INC/ (NET LOSS)
Administration	110	48,709	(48,709)	0
Water	120	625,975	(377,477)	248,498
Sewer	130	191,925	(136,446)	55,479
Blacklake Water	140	108,998	(70,047)	38,951
Blacklake Sewer	150	37,232	(52,404)	(15,172)
Blacklake Streetlighting	160	7,840	(5,524)	2,316
Drainage Maintenance	170	5,589	0	5,589
Sewer Maint Dist (Folkert Oaks)	180	8,450	(326)	8,124
Montecito Verde II	190	3,517	(225)	3,292
Property Taxes	210	82,486	0	82,486
Water Capacity Fees	220	17,712	0	17,712
Sewer Capacity Fees	230	47,282	0	47,282
Blacklake Water Capacity Fees	240	2,908	0	2,908
Funded Replacement-Water	800	54,209	0	54,209
Funded Replacement-Sewer	801	52,205	0	52,205
Funded Replacement-BL Water	802	5,385	0	5,385
Funded Replacement-BL Sewer	803	3,475	0	3,475
TOTAL		1,303,897	(691,158)	612,739

FUND	FUND #	CASH BALANCE 12/31/96
Administration	110	4,017
Water	120	307,160
Sewer	130	173,023
Blacklake Water	140	374,266
Blacklake Sewer	150	13,858
Blacklake Streetlighting	160	47,878
Drainage Maintenance	170	93,093
Sewer Maint Dist (Folkert Oaks)	180	123,703
Montecito Verde II	190	32,354
Property Taxes	210	291,031
Water Capacity Fees	220	636,428
Sewer Capacity Fees	230	1,797,442
Blacklake Water Capacity Fees	240	105,535
Funded Replacement-Water	800	122,056
Funded Replacement-Sewer	801	216,319
Funded Replacement-BL Water	802	16,521
Funded Replacement-BL Sewer	803	9,716
SUBTOTAL		4,364,400

CUSTODIAL FUNDS-ASSESSMENT DISTRICT 93-1

A/D-Redemption Fund	820	153,718
A/D-Reserve Fund	820	117,498
SUBTOTAL		271,216

GRANDTOTAL 4,635,616

Combined

Period Ending: 12/31/96

BALANCE SHEET

Page 1

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NIPOMO COMMUNITY SERVICES DIST

Report Date: 01/31/97

(Consolidated) 100 - 803

	Current Balance	Year's Beg. Bal.	Change	Cur Month Last Year	Change	% of Change
ASSETS						
CURRENT ASSETS						
Cash on Hand	350	350	0	350	0	0
1040 Cash-Checking	1,112	6,824	-5,712	7,267	-6,156	-85
1045 Cash-Savings	60,931	22,520	38,411	50,975	9,957	19
1080 Cash in L.A.I.F.	4,548,090	4,275,246	272,844	3,519,286	1,028,803	29
1081 Cash-Fiscal Agent	3,133	28,481	-25,348	94,894	-91,761	-97
1082 C.D.-Held by SLO Cty	22,000	0	22,000	0	22,000	0
1085 Cash-A.D. Improvement Fund 93-1	0	770	-770	13,917	-13,917	%-100
Due To/From Cash Pool	-271,215	-618,276	347,061	-529,631	258,416	-49
1210 Accounts Receivable-Water/Sewer	69,593	53,727	15,866	59,876	9,717	16
1220 Unbilled Water Sales Receivable	158,000	158,000	0	65,000	93,000	143
1221 Unbilled Sewer Sales Receivable	40,000	40,000	0	16,000	24,000	150
1260 Prepaid Insurance	18,384	2,741	15,643	19,278	-894	-5
1270 Prepaid Rent	1,980	1,931	49	1,931	49	2
Due To/From Other Funds	0	-1,791	1,791	-58,253	58,253	%-100
TOTAL CURRENT ASSETS	4,652,357	3,970,523	681,834	3,260,890	1,391,467	42
FIXED ASSETS						
Property, Plant and Equipment	18,309,555	18,069,840	239,716	17,672,558	636,997	3
1 accumulated Depreciation	3,962,277	4,004,258	-41,981	3,708,121	254,156	-6
NET FIXED ASSETS	14,347,278	14,065,582	281,697	13,964,437	382,841	2
OTHER ASSETS						
1800 Accrued Interest Receivable	58,038	48,250	9,789	42,056	15,982	38
1833 Deposit-W/C Insurance	2,700	3,766	-1,066	5,747	-3,047	-54
1835 Notes Receivable-M.V. I	108,205	112,259	-4,054	112,287	-4,081	-4
TOTAL OTHER ASSETS	168,944	164,275	4,669	160,090	8,854	5
TOTAL ASSETS	19,168,579	18,200,379	968,200	17,385,417	1,783,162	10
LIABILITIES AND FUND EQUITY						
CURRENT LIABILITIES						
2100 Accounts Payable	104,357	43,889	60,468	58,770	45,587	77
2101 Compensated Absences Payable	26,692	26,692	0	24,719	1,973	7
2105 A/P-Uncashed Check (Brand)	30,810	30,810	0	30,810	0	0
2110 Customer Deposits	0	0	0	19,000	-19,000	%-100
2115 Construction Meter Deposits	4,500	3,500	1,000	4,000	500	12
2116 PCI Deposit	6,315	3,627	2,688	0	6,315	0
2118 Maintenance Guarantee Deposit	5,000	5,000	0	5,000	0	0

Period Ending: 12/31/96
FISCAL YR 97

BALANCE SHEET
NIPOMO COMMUNITY SERVICES DIST

Page
Report Date: 01/31/97
(Consolidated) 100 - 0

	Current Balance	Year's Beg. Bal.	Change	Cur Month Last Year	Change	% Chg
2160 Deferred Revenues	6,300	6,300	0	6,300		0
2170 Bonds Payable-Current Portion	6,000	6,000	0	5,000	1,000	
TOTAL CURRENT LIABILITIES	183,659	122,191	61,468	153,599	30,060	
LONG TERM LIABILITIES, LESS CURRENT PORT						
2220 Water Revenue Bonds Payable-1978	201,000	201,000	0	207,000	-6,000	
TOTAL LONG TERM LIABILITIES	201,000	201,000	0	207,000	-6,000	
TOTAL LIABILITIES	390,973	326,817	64,156	360,599	30,375	
FUND EQUITY						
3100 Contributed Capital-Assets	4,327,448	4,327,448	0	4,103,186	224,262	
3101 Contrib Capital-Capacity Fees	6,381,641	6,090,336	291,305	5,555,984	825,657	
3102 Contributed Capital-Assess Dist	1,699,743	1,699,743	0	1,716,782	-17,039	
3103 Contributed Capital-Right of Way	31,600	31,600	0	31,600	0	
3110 Capital Grants-Federal and State	3,524,031	3,524,031	0	3,596,051	-72,020	
3120 R/E-Reserved	2,508,898	119,030	2,389,868	120,000	2,388,898	
3121 R/E-Reserved (Debt Service)	15,600	15,600	0	15,600	0	
3122 R/E-Reserved (Emergencies)	50,000	50,000	0	50,000	0	
3123 R/E-Reserved (Sewer Grant)	135,000	135,000	0	0	135,000	
3130 R/E-Unreserved	-509,095	1,880,774	-2,389,868	1,784,810	-2,293,904	
NET INCOME/LOSS	612,739	0	612,739	50,806	561,933	
TOTAL FUND EQUITY	18,777,605	17,873,562	904,044	17,024,818	1,752,787	
TOTAL LIABILITIES AND FUND EQUITY	19,168,579	18,200,379	968,200	17,385,417	1,783,162	

UNAUDITED REPORT

Combined

Period Ending: 12/31/96
FISCAL YR 97

INCOME STATEMENT
NIPOMO COMMUNITY SERVICES DIST

Page 3
Report Date: 01/31/97
(Consolidated) 100 - 803

	Total Budget	Cur Month Last Year	Current Month	YTD Total	% of Budget	Last Year YTD
REVENUES						
Water Sales	885,000	67,607	48,887	588,256	66	482,890
Sewer Revenues	399,100	42,291	44,306	212,974	53	184,219
Fees and Penalties	19,250	1,660	3,099	10,284	53	15,578
4220 Meter Fees	12,740	0	1,960	10,470	82	3,890
4240 Water Connection Fees	1,900	0	380	380	20	3,130
4250 Plan, Check and Inspection Fees	5,200	195	0	550	11	9,252
4265 Sewer Lift Station	5,000	0	5,500	13,000	260	7,500
Miscellaneous Income	800	228	42	1,394	174	4,624
4292 Administrative Fee	5,200	100	0	10,104	194	6,121
4295 Streetlighting Income	13,124	5,327	4,932	6,588	50	7,448
4310 Annexation Fees	4,000	0	500	1,000	25	3,000
4320 Backflow Test	0	43	0	130	0	518
4700 Settlement Income	0	0	20,000	110,000	0	0
4800 Oper Trans In-Admin	97,704	7,264	8,823	36,787	38	41,542
4810 Oper Trans In-Funded Deprec	213,360	10,646	17,780	106,680	50	67,944
TOTAL REVENUES	1,662,378	135,362	156,210	1,108,598	66	837,478
EXPENSES						
5010 Accounting	2,675	0	0	2,675	100	2,675
50 Advertising	0	0	417	417	0	0
503 Bank Charges	51	0	6	24	47	0
5035 BL Advisory Committee	0	0	0	853	0	0
5060 Chemicals	7,548	698	0	3,157	42	4,311
5070 Computer Expense	2,500	315	589	3,177	127	2,845
5080 Consulting	0	0	-2	0	0	24,031
5090 Director Fees	15,000	0	700	5,350	36	5,492
5100 Dues and Subscriptions	3,000	181	1,735	2,213	74	1,965
5110 Education and Training	3,000	0	50	673	22	298
5112 Engineering	2,800	2,352	3,059	9,929	355	6,618
5115 Elections	4,550	0	0	0	0	0
5120 Equipment Rental	525	0	0	0	0	0
5123 Fire Alarm (Maint Bldg)	404	0	0	210	52	210
5125 Fuel	7,680	632	653	3,106	40	3,367
5130 Insurance-Liability	33,510	2,755	2,623	15,856	47	16,049
5140 Insurance-Medical/Dental	45,900	567	3,460	21,337	46	23,043
5150 Insurance-Workman's Compensation	11,220	2,812	2,423	5,114	46	5,697
5160 Lab Tests and Supplies	25,150	452	1,520	8,155	32	5,538
5170 Legal	30,250	2,311	5,849	15,093	50	17,261
5171 Legal-Litigation	75,000	4,620	18,262	<u>59,103</u>	79	31,796
5172 Legal-Water Counsel	6,500	285	0	0	0	557
5180 Maps and Blueprints	200	0	0	0	0	0
5190 Meters-New	3,700	0	0	1,836	50	0
5195 Meters-Replacement Program	15,000	0	0	0	0	0
5200 Miscellaneous	2,500	70	57	156	6	221
5210 Newsletter	1,805	0	0	0	0	818
52 Office Supplies	2,710	44	268	1,548	57	1,060
5230 Outside Services	28,800	1,185	205	2,153	7	6,765

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Period Ending: 12/31/96
 FISCAL YR 97

INCOME STATEMENT
 NIPOMO COMMUNITY SERVICES DIST

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 Report Date: 01/31/97
 (Consolidated) 100 - 803

	Total Budget	Cur Month Last Year	Current Month	YTD Total	% of Budget	Last Year YTD
52. Outside Service-PB Repairs	25,000	0	0	0	0	0
5240 Operating Supplies	49,000	7,600	3,104	7,134	15	19,825
5250 Paging Expense	1,485	99	282	831	56	666
5280 Permits and Operating Fees	5,955	50	6,940	8,296	139	4,920
5290 Postage	10,330	500	500	2,674	26	4,587
5300 Printing	1,220	0	0	361	30	1,245
5310 Public and Legal Notices	5,075	323	0	30	1	1,503
5320 Rent	26,400	2,137	2,186	12,969	49	12,719
5330 Repairs & Maintenance-Vehicles	4,400	144	585	1,323	30	1,450
5345 Repairs & Maintenance-Office	1,200	35	38	221	18	163
5350 Repairs & Maintenance-Water	6,500	570	263	6,634	102	3,145
5360 Repairs & Maintenance-Sewer	28,400	0	1,222	8,076	28	0
5365 Repairs & Maintenance-Misc.	200	0	0	282	141	252
5370 Retirement Benefits	18,875	0	0	0	0	8,992
5400 Taxes-Payroll	12,035	764	680	4,301	36	4,459
5405 Property Taxes	0	0	1,708	1,708	0	0
5410 Telephone	5,100	317	333	1,816	36	2,033
5420 Travel and Mileage	7,150	315	300	2,236	31	2,221
5430 Underground Notification	824	0	25	267	32	337
5440 Uniforms	2,000	0	266	910	46	886
5450 Utilities-Electricity	275,000	17,201	14,583	149,205	54	161,704
5455 Utilities-Electricity(StLight)	11,000	818	811	4,865	44	4,907
5460 Utilities-Gas	805	69	90	146	18	80
5465 Utilities-Trash Collection	935	0	106	370	40	312
5470 Wages-Office and Management	171,900	13,293	13,965	83,790	49	79,758
5 Wages-O.T.-Office and Management	2,000	70	49	548	27	1,274
5500 Wages-Maintenance	139,800	13,271	8,846	64,989	46	75,723
5510 Wages-O.T.-Maintenance	23,250	2,456	3,466	16,403	71	14,365
TOTAL EXPENSES	1,167,817	79,308	102,221	542,519	46	568,226
EXCESS REV. OVER EXP.	494,561	56,054	53,989	566,079	114	269,251
OTHER INCOME AND EXPENSES						
OTHER INCOME						
Interest Income	180,955	47,515	60,901	114,100	63	90,500
6175 Tax Revenues	138,300	59,146	60,210	81,202	59	83,043
TOTAL OTHER INCOME	319,255	106,661	121,111	195,302	61	176,043

Ending: 12/31/96
FISCAL YR 97

INCOME STATEMENT
NIPOMO COMMUNITY SERVICES DIST

Report Date: 01/31/97
(Consolidated) 100 - 803

	Total Budget	Cur Month Last Year	Current Month	YTD Total	% of Budget	Last Year YTD
OTHER EXPENSES						
6500 Interest Expense	10,400	0	5,175	5,175	-50	5,300
6800 Contingency-Budgeted	5,000	0	0	0	0	0
6901 Oper Trans Out-Admin	97,704	7,264	8,823	36,787	-38	41,542
6950 Oper Trans Out-Funded Deprec	213,360	10,646	17,780	106,680	-50	67,944

TOTAL OTHER EXPENSES	-326,464	28,707	-31,778	-148,642	45	164,916

TOTAL OTHER INCOME AND EXPENSES	-7,209	135,368	89,333	46,660	%-648	340,958

EXCESS REV.& OTHER OVER EXP.	487,352	191,422	143,322	612,739	125	610,210
=====						

UNAUDITED REPORT

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: FEBRUARY 5, 1997

MANAGER'S REPORT

The following items are for information to the Board:

1. CALIFORNIA RURAL WATER ASSOCIATION CONFERENCE
Information is attached for a conference to be held Feb. 24 - 26 in Sacramento.
2. SOUTHERN CALIFORNIA WATER COMPANY
Attached is information sent by Calif. Cities Co. to their customers in the Santa Maria area along with a letter to the editor on the subject.
3. OFFICE BUILDING STATUS
Framing of the new office building is well under way.
4. CSDA & Legislative Analyst Office INFO. ON PROP 218
Attached is information on Prop. 218 from these agencies.
5. SPECIAL ELECTION SCHEDULE - PROP 218
The District has received information from the County Election Office for the Election Schedule if there is any election necessary to comply with Prop. 218.
6. COUNTY Water Resources Advisory Committee MEETING
Staff will report on the meeting held on February 5, 1997.
7. GOVERNOR'S CORRESPONDENCE ON AB 2797

California Rural Water Association

5th ANNUAL CONFERENCE AND EXHIBITION
RADISSON HOTEL, SACRAMENTO
FEBRUARY 24-26, 1997



"Roundup at the
CRWA Corral—
Riding Herd on the
Regs"

Monday, February 24

- 1:00pm - 4:00pm: Keynote speech on the Safe Drinking Water Act and the State Revolving Fund (SRF) Program
6:00pm - 9:00pm: BBQ Dinner and Theme Party

Tuesday, February 25

- 7:30am - 9:00am: Meet and Greet the vendors
9:00am - 11:00am: Technical Sessions—
Workers' Comp Insurance
Cross Connection Backflow
Alternative Filtration Technology
Ground Water Disinfection Rule
Iron & Manganese
Pump Efficiency to save money
11:30am - 12:30pm: Lunch provided
1:00pm - 4:00pm: Technical Sessions—
Financing - Bonds, Grants, Loans
Preparing a disaster response plan
Lagoon Operations & Maintenance
Safety Management Program
Standard Electrical Power Systems
Pump Curves—understanding them
4:30pm - 6:00pm: Vendor Display, Hors d'oeuvres,
Prize Drawing

Wednesday, February 26

- 7:30am - 8:30am: Annual Meeting
9:00am - 10:00am: Technical Sessions—
New Ground Water Program
Leak Detection
Alternative technology for disinfection
10:30am - Noon: Closing Session

Radisson
HOTEL SACRAMENTO

500 Leisure Lane
Sacramento, CA 95815
Phone (916) 922-2020
Fax (916) 649-9463



A DELIGHTFUL RESORT ATMOSPHERE

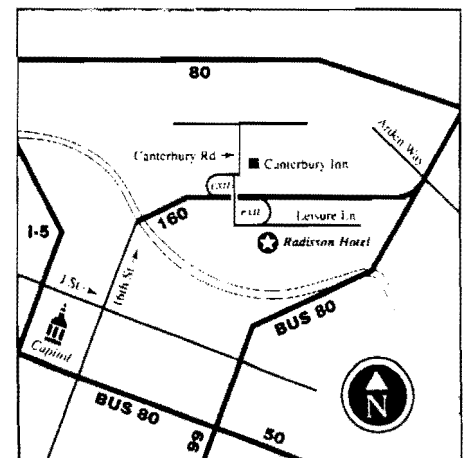
- 314 spacious guest rooms, including 31 Junior Suites and 20 Hospitality Suites. Many rooms feature patios or balconies overlooking the lake.
- Lakeside pool and spa overlooking a 50-foot fountain.
- State-of-the-art Fitness Center featuring Stairmaster, Life Cycle, Icarian and Muscle Dynamics equipment.
- Par Fitness Course and access to jogging and bicycle trails. Bike rentals are available.
- In room coffee service.
- Free parking and airport shuttle service.

RENOWNED DINING AND ENTERTAINMENT

- Casual California dining in the open, airy *Palm Court*.
- Lakeside dining with a panoramic view in the *Cabana Room*.
- The intimate *Petite Palm* espresso cafe features Java City specialty coffees, pastries and light dining fare.
- Top-name entertainment in *The Grove*, our 1,200-seat lakeside amphitheater.
- Our unique lakeside night spot, *Crocodile's*, is "crawling" with nightlife! Complimentary appetizers and dancing nightly.

CONVENIENTLY LOCATED

- 5 minutes from the State Capitol, historic Old Sacramento and world-class shopping.
- 15 minutes from Sacramento Metropolitan Airport.



RECEIVED

DEC 27 1997

MEMBERSHIP APPLICATION

CALIFORNIA RURAL WATER ASSOCIATION

Renewal New Member

Name _____ Check if Individual
 Mailing Address _____ Location Address _____
 City _____ State _____ Zip _____ City _____ State _____ Zip _____
 Phone () _____ Fax () _____
 Contact Name _____ Congressional District/Rep. _____

WATER SYSTEM SURVEY

County: _____ # Employees: _____

Regulated by: County State (Dept. of Health Services)

Ownership: Public Mutual or Association

Functions: Water Wastewater Both

Water Source: Ground Surface Both

Service Connections: _____ Water _____ Wastewater _____

Gov't Funding: Type _____ Amount \$ _____

Total population of service area: _____

Operating budget for current fiscal year: \$ _____

NON-WATER SYSTEM SURVEY

County: _____

Type of Business: _____

Product Description: _____

Territory: _____

ASSOCIATION INTERESTS (Please check all that apply).

- Membership Growth Legislative Activities Public Relations Conduct Training Sessions
 Advertising Exhibiting at Conferences Writing Articles Other

California Rural Water Association Mission Statement

To enhance the quality of life in small communities by providing training, technical assistance, and representation to public water and wastewater utilities, while maintaining environmental integrity.

CRWA welcomes all new members. Everyone is eligible for CRWA benefits. In the spirit of our mission statement, which ensures that CRWA represents rural water, voting privileges are extended only to systems serving an aggregate population of 10,000 or less.

ANNUAL DUES (Please enclose check with application. Thank you.)

Water Systems: \$175.00 Non-Water Systems: \$175.00 Individuals: \$25.00

Six Month Trial Membership \$75.00

Office Use Only: Date Received: _____ Member Code: _____ Approved: _____

Revised 10-1-95

Voting: yes no

CRWA Contact: _____

A CHALLENGE

Southern California Water Company

Based on the findings cited in the Santa Barbara County Groundwater Resources Report and other separate studies over the years, we know that the Santa Maria Groundwater Basin is in overdraft by about 20,000 acre feet per year (AFY). As a protector and provider of water to local residents, we are concerned.

In order to protect and provide water for our customers in a responsible, professional manner, we monitor water supply, water demand, and rainfall levels by decade, not by day. The public trust that has been placed in us requires that we protect water quality and ensure water availability to our customers and their children not only for today, but for many years to come. To do that, we must think ahead to tomorrow, to next year, and to well beyond that. We share what concerns us...

Quality: Water is a fragile and precious resource. Overdraft conditions in local groundwater can negatively impact water quality in a variety of ways:

- seawater intrusion
- hard water
- poor water taste
- appliance wear
- greater soap needs
- excessive salinity
- corrosion of pipes
- higher equipment and management costs
- higher water treatment costs

Availability: In the 1980's, nine different options for providing supplemental water were studied and considered, with the only cost-effective, viable option proving to be the importation of state water. Due to the foresight of Southern California Water Company in reserving for California Cities Water customers an entitlement to this water supply, our consumers have available 500 AFY for their needs. This supplemental water is on reserve for our consumers, and we are currently requesting a cost-recovery rate adjustment from the Public Utilities Commission that would cover the costs of both participating in the Coastal Branch of the State Water Project and of delivering this water to our consumers. The availability of this high-quality supplemental imported water is important for these reasons:

- by addressing the overdraft, we can raise the water level and avoid the potential of higher pumping costs which would be passed on to customers
- by increasing the water level in the basin, we can prevent seawater intrusion and resulting problems
- by having the ability to "blend" high quality imported water with local water, we can improve water quality in geographical areas of emerging water degradation
- by participating in the Coastal Branch, we align our local water future with the obvious direction of today's forward-looking water management - keeping our options open to receiving high quality water from other areas in times of need

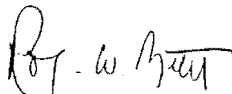
A COST-EFFECTIVE CHOICE

Long ago, communities were at the mercy of their topography and their rainfall for water availability. Today, intelligent water planning, water sharing, and water transport are eliminating water shortfalls and poor water quality. The cost for this safe, secure, available water supply is cooperation. Cooperation with a variety of other water providers and users maximizes resources and reduces overall delivery costs to those willing to contribute their fair and reasonable share for the life-enhancing benefits of our most precious resource.

As protector and provider of a good quality, plentiful water supply for our customers, we have diligently evaluated our local water resources, needs and options and our customers are now positioned to benefit from the most cost-effective source of supplemental water, a source which can prevent potentially higher pumping costs and emerging water quality concerns.

Looking forward, the Southern California Water Company has already advanced most of the funds required to bring this supplemental water to the doorstep of our customers. Our shareholders are absorbing a significant portion of the overall costs of participating in the Coastal Branch delivery system. Now we are asking our customers to complete the circle of cooperation between the State, local water providers, and consumers by contributing a fair and reasonable amount to help us recover the costs of bringing this most cost-effective supplemental water supply to Santa Maria. A California Cities Water cost-recovery rate adjustment would increase the monthly rate of a typical 28 hundred cubic feet (Ccf) per month customer by \$5.07 in 1997, and by an additional \$0.22 in 1998.*

How much is it worth to enjoy a high-quality, plentiful water supply? We think it's priceless. The entitlement of our consumers to a portion of statewide water is already assured by previous action. The current rate adjustment request will recover costs, help resolve overdraft and quality problems and avoid potential costs and delays of adjudication, speeding delivery of a high-quality available supplemental water supply to California Cities' customers.



Roger Brett
Customer Services Representative
California Cities Water
4854 "F" Bradley Road
Santa Maria, CA 93455
(805) 937-1010

PUBLIC CONVERSATION

Watch for an invitation to
a late January meeting
for more information.

* 16% in 1997 over 1996 rates, 6% in 1998 over 1997 rates

letters to the editor

Water hike misleading

Dear Editor:

Attention: Residents of the Orcutt & Nipomo area served by California Cities Water.

You have just received an information letter, regarding the rate increase to purchase State Water. It is filled with half truths and purposeful omission to mislead you.

The context of the letter is all very altruistic, but you should recognize that Southern California Water Company (locally, Cal. Cities Water) is a publicly traded corporation. They are in the business of making as much profit as possible. In this case by supplying the commodity, water.

Conservation is the most cost effective way to increase the water supply. It is not, however, being discussed in this message. Conservation does not sell more water.

SCWC management, in 1993, took the risk of reserving/purchasing an entitlement of 500 Acre Feet per year (AFY) of State Water from the Central Coast Water Authority, in the hope of selling it to new development and the current rate payers underwriting the purchase. They are now asking the Public Utilities Commission to raise rates for just this underwriting.

Here are some facts that were not stated in the letter.

1. Overdraft Condition

The Santa Barbara County Water Agency, June 1996, "Santa Barbara County 1996 Ground Water Resources Report" (Pg 41) estimated the overdraft to be between 6000 AFY and 20,000 AFY, depending upon which hydrologic model is used. This was later modified by the SBCWA to reflect an accuracy of plus or minus 7000 AFY. Therefore a surplus or overdraft is a possibility.

The farm community that is represented by the Santa Maria Valley Water Conservation District claim that there is a surplus. Following the seven (7) year

drought, one (1) wet year, antidotal evidence indicates the farm well level is where higher than they had been in several decades.

2. Water Quality

The Total dissolved Solids (TDS), a standard of measure of water quality, is about 1/4 the Maximum Federal Standard Contaminant Level of 1000 Mg/L. 500 AFY of State Water, even at 0 Mg/L would have negligible effect on, any of the ten (10) water quality issues cited. Considering the Santa Maria Ground Water Basin contains 1.5 million acre feet of ground water.

3. Reliability

The State Water Project historically has not been able to deliver full entitlement to their contractors. Contracted entitlement are 4 million AFY. The firm yield of the system is 2.3 million AFY. The only variable cost of the project is the delta water charge and the O&M. The fixed costs of the project raise the per acre foot cost as less water is delivered.

4. Availability

The options of the 1980's were false science that as advanced to justify the State Water Project. They can not in the 1990's be sustained, but they continue to be quoted as though they were biblical.

500 AF of State Water would raise the water level in Cal. Cities 14 pumping areas by fractions of inches. Since it is planned for only the Tanglewood and Evergreen areas, the other 12 pumping areas would not be effected by quality or quantity.

5. PUC Application

This initial request is for a 17 percent rate increase, but will end up much higher.

SCWC's application states "to participate in the State Water Project and to recover all present and future costs under contract with the Central Coast Water Authority and other related costs to deliver water to its Santa Maria District."

This is an open ended request that would be an unreasonable burden for the rate payers of the Santa Maria and Nipomo Districts to assume.

Sincerely,
P.J. Devine
Santa Maria

- 6000 AF		- 20,000 AF
+ 7000 AF		- 7,000 AF
TO		
+ 1000 AF		- 27,000 AF
Under Draft		Over Draft



CSDA NEWS

VOLUME 13, NUMBER 1

JANUARY 1997

CALIFORNIA SPECIAL DISTRICTS ASSOCIATION

Proposition 218 Punches a Hole in Local Agency Revenue

by Blanning & Baker Associates, Inc.

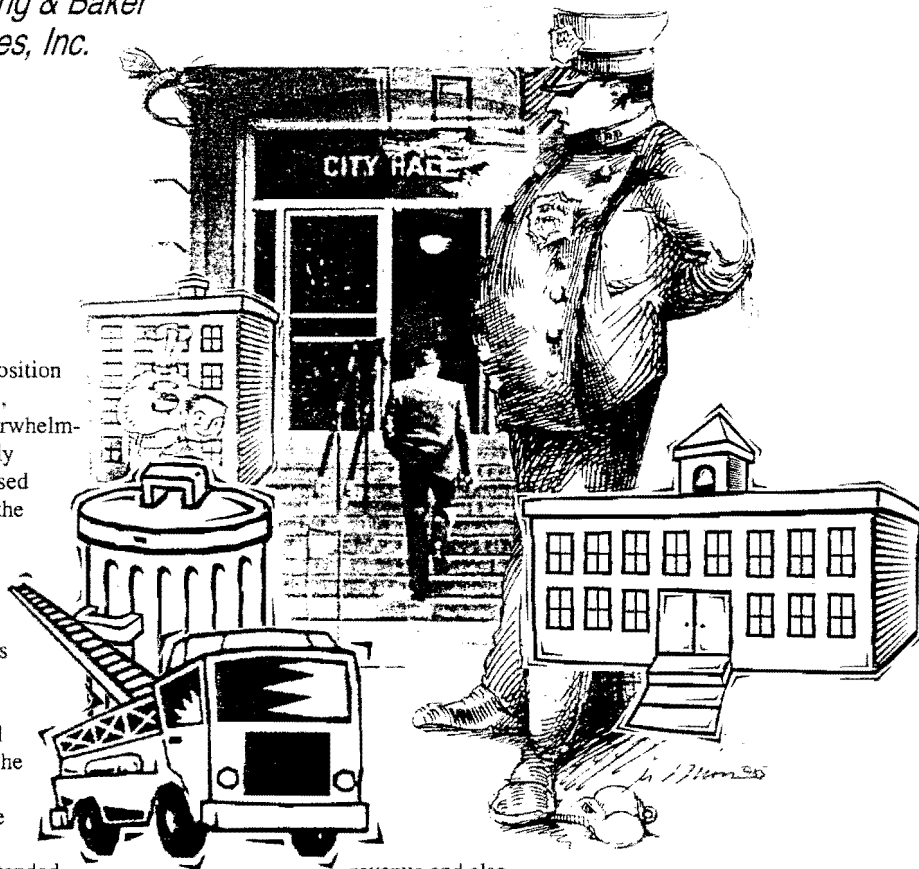
Proposition 218, overwhelmingly passed by the voters on November 5, was authored by Howard Jarvis Taxpayers' Association President Joel Fox because, he felt, local agencies were trying to get around the intended Proposition 13 through "Orwellian versions of property taxes." Calling his measure the "Right to Vote on Taxes Act," Fox said it "is simply a measure to allow local citizens a right to vote on property taxes that they pay." The citizens like the measure well enough to approve the constitutional amendment.

Stated simply, the measure severely limits the ability of local agencies to raise certain types of

revenue and also restricts their expenditures. In addition to the Jarvis organization, the measure was supported by Richard Gann, President of Paul Gann Citizens Committee and the California Taxpayers' Association. The opposition campaign included the League of Women Voters, the California Teachers' Association and other unions, the Congress of California Seniors, and the League of California Cities.

continued on page 4

Copy of document found at www.NoNewWipTax.com



Proposition 218

continued from page 1

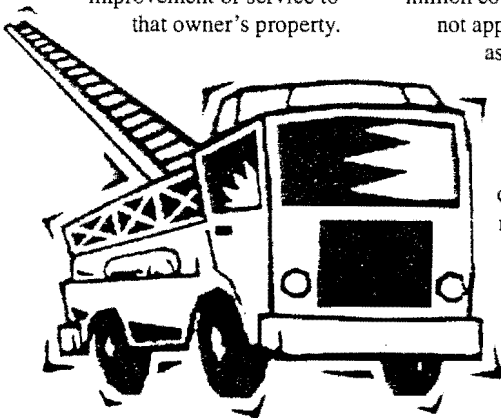
What does the measure do? It changes requirements for general taxes, assessments and fees/charges. It reaffirms the requirement that special taxes need to receive two-thirds approval of registered voters.

According to the Legislative Analyst, the measure requires that all future local general taxes must be approved by a majority vote of the people.

This also applies to taxes established after December 31, 1994. General taxes generate revenues which can be used to pay for many government programs, such as police and fire services. Previously, local agency governing boards made those decisions.

Assessments are charged to property owners to pay for projects and services that benefit the properties. These can include fire, park, ambulance, and mosquito control assessments. Stand-by charges commonly finance water and sewer service expansions to new households and businesses.

This measure requires local government to estimate the amount of "special benefit" to specific properties. Landowners may only be charged for the cost of providing a special benefit, as opposed to a general benefit, such as a general increase in property values. A property owner's assessment may not be greater than the cost to provide the improvement or service to that owner's property.



Schools and public agencies must pay their share (which is not currently the case).

Each assessment must be approved by a mail-in election of property owners (and renters responsible for paying assessments). The ballots are weighted based on the amount of the assessment the property owner or renter would pay.

The final area includes fees for charges for services to property, such as garbage collection and sewers. In the future (on or after July 1, 1997), such fees or charges

may not exceed the cost of providing the service to individual property owners; no fee revenue may be used for any other purpose; and no fee may be charged for service widely available to the public, such as fire, police, ambulance, or library service. Before adopting a new fee or increasing an existing one, local agencies must mail information to every property owner and hold an election on the fee (unless it is for water, sewer or refuse collection service).

The Legislative Analyst estimated the revenue reduction for local governments would exceed \$100 million. Opponents claim the figure is closer to \$300 million. Up to an additional \$100 million could be lost if voters do not approve existing taxes and assessments. The cost of

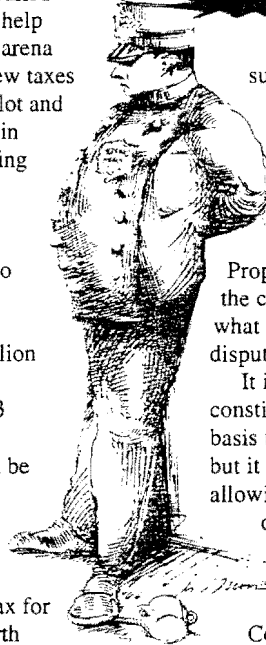
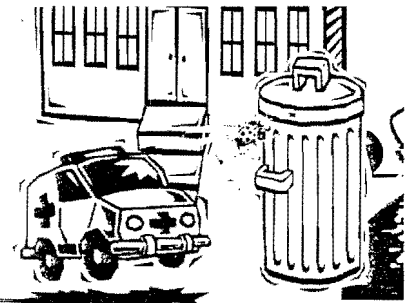
holding elections, calculating the fees, notifying the public and defending actions in court could cost \$10 million initially to local agencies. The cost to public agencies which don't usually pay assessments but will have to do so under Prop 218, the Legislative Analyst

says, could exceed \$10 million initially. The Legislative Analyst's Office says, "If you look at local government as a whole, it is a relatively moderate reduction in their revenues." Many local officials disagree.

The impact has been felt already. The City of Inglewood has pulled back its offer to help finance a sports arena because three new taxes - hotel, parking lot and ticket - are now in jeopardy. Lighting and landscape assessment throughout the state may have to be put to a vote. Los Angeles County's \$9 million annual level for libraries and \$53 million for fire protection could be jeopardized as well as Inglewood's \$1.4 million annual special tax for police. The North

Tahoe Fire Protection District estimated that 22 percent of its budget comes from what are now illegal assessments. The City of Davis will have to put its \$2.5 million landscaping and lighting assessment before the voters.

There will be disputes which will be litigated in court. For example, the City of Sacramento puts a 10 percent



surcharge on its eight enterprise funds which raises \$14 million per year for the city's general fund. While legal options on the "real" meaning of Proposition 218 will proliferate, the courts will be determining what the measure means in disputed cases.

It is difficult to challenge a constitutional amendment on the basis that it is unconstitutional, but it can be done. For instance, allowing weighted voting based on property ownership will be challenged on the basis that it allegedly violates the U.S.

Constitution.

When will we know what it means? Perhaps the gloomiest projections are from Moody's Investors Service, which predicts "the full impact of the new fiscal restrictions will not manifest itself for years, most likely during a future recession." As a League of California Cities spokesperson says, "It puts us in the state of trying to manage (local agency) finances and not knowing what the rules are." ☺

Proposition 218 Leg Analyst Document Released

The Legislative Analyst has released a report on "Understanding Proposition 218". To obtain a copy call (916) 445-2375. The report is also available on the LAO's World Wide Web site at: <http://www.lao.ca.gov>. You can also obtain a copy by sending a request to: 925 L Street, Suite 1000, Sacramento, CA 95814. ☺

CSDA NEWS

CSDA NEWS is a publication of the California Special Districts Association. CSDA is located at 1121 L Street, Suite 508, Sacramento, CA 95814. Phone: 916/442-7887. Fax: 916/442-7889.

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David McMurchie, Legal Counsel (916/443-1030)

Proposition 218: Gridlock compounded

Reprinted with permission of *The Sacramento Bee* Editorial, December 23, 1996

Proposition 218, passed by the voters last month, never got anywhere near the attention that its predecessor, Proposition 13, is still getting. And it certainly won't have nearly as much effect on property taxes. But its impact on local finance and governance will be enormous.

Proposition 218 sharply limits the use of local assessments and requires votes by property owners on virtually all property-related local fees and assessments. And while the cumulative effect of those restrictions will probably not decrease aggregate local revenues by more than 5 percent (roughly \$2.5 billion per year statewide), a new report by the legislative analyst reaffirms the conclusion that the effect on local government and finance will be profound.

The technical details at this point are unimportant; some are still in doubt and will almost certainly be the subject of extended litigation. But there's no doubt that Proposition 218 imposes highly complicated new restrictions on the ability of local agencies to manage their own affairs - and cities and special districts particularly.

If a local agency wants to improve lighting and fund it through an assessment on

property; it will have to do engineering studies to calculate the share of the benefit received by each parcel and thus the assessment that can be imposed. And in virtually all cases where assessments are imposed for special purposes - improvements to a neighborhood for better lighting or parks or sidewalks - property owners must vote to approve them, with the vote weighted according to the tax that will be borne by each owner. People who own no property will have no vote.

In the years since the passage of Proposition 13, many local agencies learned to live with its

But in doing that, it will also make the ability to manage new development, to build new infrastructure and to conduct other local business far more difficult. And it will further shift emphasis from a community ethic to a fee ethic, where no one is ever expected to pay for anything that he doesn't immediately benefit from.

The one hope in all this is that Proposition 218 will finally bring home the screwball government and fiscal structures that have followed in the wake of Proposition 13. If that finally demonstrates the state's urgent need for basic reforms in government



restrictions, in part by using devices carved through the cracks and loopholes it left. Proposition 218 closes virtually all of them. In that sense, as its sponsors say, it's consistent with the intent of the original tax limitation measure.

structures, it may have been worth it. But at this point, it looks like things will get considerably worse before they have any chance of getting better. Proposition 218: Gridlock compounded.

Legislative Analyst's Office, December 1996



Understanding Proposition 218

Table of Contents

- Introduction
- Chapter 1: How Proposition 218 Changes Local Finance and Governance
- Chapter 2: Understanding the Vocabulary of Proposition 218
- Chapter 3: Are Existing Revenues Affected by Proposition 218?
- Chapter 4: What Must a Local Government Do to Raise New Revenues?
- Chapter 5: May Residents Overturn Local Taxes, Assessments, and Fees?
- Appendix I: Areas in Which Legislative or Judicial Clarification May Be Needed
- Appendix II: Text of Proposition 218

Introduction

Proposition 218 significantly changes local government finance. This constitutional initiative--approved by the state's voters in November 1996--applies to each of California's nearly 7,000 cities, counties, special districts, schools, community college districts, redevelopment agencies, and regional organizations.

The purpose of this guide is to help the Legislature, local officials, and other parties understand Proposition 218, including the actions local governments must take to implement it. The guide includes five chapters:

- How Proposition 218 Changes Local Finance and Governance.
- Understanding the Vocabulary of Proposition 218.
- Are Existing Revenues Affected by Proposition 218?
- What Must a Local Government do to Raise New Revenues?
- May Residents Overturn Local Taxes, Assessments, and Fees?

Finally, the appendix to this guide summarizes major areas of uncertainty pertaining to Proposition 218 (some of which the Legislature may wish to address), and includes the text of Proposition 218 (now Article XIII C and D of the California Constitution).

Chapter 1

How Proposition 218 Changes Local Finance and Governance

Nearly two decades ago, Proposition 13 sharply constrained local governments' ability to raise property taxes, the mainstay of local government finance. Proposition 13 also specified that any local tax imposed to pay for specific governmental programs--a "special tax"--must be approved by two-thirds of the voters.

Since that time, many local governments have relied increasingly upon *other* revenue tools to finance local services, most notably: assessments, property-related fees, and a variety of small general purpose taxes (such as hotel, business license, and utility user taxes). It is the use of *these* local revenue tools that is the focus of Proposition 218.

In general, the intent of Proposition 218 is to ensure that all taxes and most charges on property owners are subject to voter approval. In addition, Proposition 218 seeks to curb some perceived abuses in the use of assessments and property-related fees, specifically the use of these revenue-raising tools to pay for general governmental services rather than property-related services.

In this chapter, we provide an overview and perspective on the impact of Proposition 218 on local finance and governance.

Proposition 218 Changes Local Government Finance

Proposition 218 makes several important changes regarding local government finance. Figure 1 summarizes our observations regarding their fiscal impact.

Figure 1
Proposition 218's Impact on Local Finance
<ul style="list-style-type: none"> ◆ The measure's fiscal impact cannot be fully ascertained until the uncertainty regarding some of its provisions are resolved. ◆ Most local revenues are not affected. ◆ The impact on certain local governments could be substantial. ◆ Local government revenue reductions will begin in 1997. ◆ In the long term, local government revenues are likely to be somewhat lower and come from different sources.

Some Uncertainty Regarding Proposition 218's Provisions

Proposition 218's requirements span a large spectrum, including local initiatives, water standby charges, legal standards of proof, election procedures, and the calculation and use of sewer assessment revenues. Although the measure is quite detailed in many respects, some important provisions are not completely clear.

In this guide, we provide our interpretation of the measure's requirements. This interpretation is based on our extensive review of the measure, as well as consultations with the measure's drafters, local government officials, and legal counsel. In some cases, however, we are not able to fully ascertain the meaning or scope of a Proposition 218 requirement. We believe our uncertainty--frequently shared by other analysts of the measure--will be resolved only when the Legislature enacts implementing statutes or court rulings become available.

Accordingly, throughout this guide we discuss Proposition 218 as we understand it. Where other parties have different opinions or the measure's requirements are not clear, we provide this information. Finally, we provide in Appendix I a summary of the areas in which clarifying legislative or judicial action may be necessary.

Most Local Revenues Are Not Affected

California local governments raise more than \$50 billion annually from taxes, assessments, and fees. As Figure 2 shows, most of these local revenues are *not* affected directly by Proposition 218. Instead, Proposition 218's provisions apply to a relatively small subset of local government revenues.

Figure 2	
Which Local Revenues Are Affected by Proposition 218?	
Affected	Not Directly Affected
Taxes	
New and some recently imposed "general" taxes.	Property taxes. Bradley-Burns sales taxes. Special taxes. Vehicle license taxes. Redevelopment revenues. Mello-Roos taxes. Timber taxes.
Assessments	
All new or increased assessments. Some existing assessments.	Most existing assessments.
Fees	
Property-related fees. (Fees imposed as an "incident of property ownership," not including gas, electric, or developer fees.)	Fees that are <i>not</i> property-related. Gas and electric fees. Developer fees.

Given the relatively small number and dollar value of local revenue sources that are affected by Proposition 218, we think it is highly unlikely that the measure could cause more than a 5 percent annual decrease in *aggregate* local government own-source revenues.

Impact on Certain Local Governments May Be Substantial

The actual impact of Proposition 218 on local public services may be greater than our 5 percent estimate would suggest, however, for a variety of reasons. First, some governments are highly reliant upon the

types of assessments and fees that would be restricted by this measure. These local governments--typically, small, newly incorporated cities, and library, fire, and park and recreation special districts--may sustain revenue reductions of much more than 5 percent. Some special districts also lack the authority to propose taxes to replace the lost assessment and fee revenues.

Second, many local governments have limited flexibility to reduce programs when revenues decline. Most major county programs, for example, are subject to state and federal mandates and spending requirements. As a result, relatively small revenue losses can trigger significant reductions to the few programs over which the local government has control.

Finally, many local governments will experience both revenue reductions *and* cost increases to comply with Proposition 218. For example, some local governments will lose part of their assessment and fee revenues, and have to pay:

- Assessments charges to other local governments.
- Increased election, property-owner notification, and administrative costs.

These increased costs will increase the fiscal impact of this measure on local government programs.

Fiscal Impact Begins in 1997

The fiscal impact of Proposition 218 will begin almost immediately. Within eight months of Proposition 218's passage, local governments will need to reduce or eliminate certain existing assessments and fees to meet the measure's requirements. (These requirements are discussed in Chapter Three.) We estimate that these actions will reduce local government revenues by at least \$100 million in 1997-98.

Proposition 218 also requires local governments to place before the voters certain existing assessments and taxes. Unless the voters ratify these assessments and taxes, local governments will experience *additional* revenues losses, potentially exceeding \$100 million annually.

Longer Term: Different Revenue Sources, Probably Less Money

Proposition 218 restricts local governments' ability to impose assessments and property-related fees--and requires elections to approve many local government revenue raising methods. Because of this, it is likely that over the long term local governments will raise fewer revenues from assessments, property-related fees, and some taxes.

Unless these reduced local revenues are replaced with other revenues, local government spending for local public services will decrease accordingly. What other revenues could offset these revenue reductions? It is likely that local governments will pursue one or more of the following sources of potential replacement revenues:

- Redevelopment revenues.
- Developer exactions.
- General taxes imposed on particular groups (such as business license, hotel occupancy, and sporting or entertainment admission taxes).
- Special taxes imposed on properties within small, discrete areas.
- Intergovernmental transfers.
- Non-property related fees.

Limited Ability to Raise Replacement Revenues. Local governments' ability to expand these six other revenue sources is not great. Various legal and practical restrictions limit a major expansion of redevelopment or developer exactions, for example. In addition, many local government observers believe that existing hotel and business taxes are already high and not all parts of the state have major entertainment or sporting centers. (We include these taxes on the above list because these taxes are not paid directly by most voters. Thus, the likelihood of their being approved by a majority of voters may be higher than other general taxes.)

Similarly, while local governments in California have had difficulty securing the requisite two-thirds vote to impose special taxes, it is likely that some additional special taxes will be approved. Special taxes probably are more likely to be adopted in small, discrete areas of a community where the commonality of interest is high, however, rather than on a community-wide basis. Thus, the likelihood of generating significant revenues from special taxes is not great.

Additional major revenues from the state or federal government also do not appear likely, given the fiscal limitations faced by both these level of governments. (Please see our November 1996 publication, *California's Fiscal Outlook*, for our projections of the state's fiscal condition.)

This leaves the last revenue source on our list: non-property related fees. Ultimately, the ability of local government to expand this revenue source turns on how the term "property-related" fee is defined by the Legislature or courts. If the definition of a property-related fee is broad, then local government's ability to replace revenues lost by Proposition 218 is limited. Conversely, if this definition is narrow, then local government will have greater opportunities to replace lost revenues with expanded non property-related fees. (Even then, however, the state Constitution and statutes do not permit local government to charge fees in excess of costs.)

All in all, our review indicates that most local governments will have some ability to raise revenues to replace some of the funding lost by Proposition 218. This ability, however, is limited. Accordingly, we expect that in the long term, local governments will raise somewhat less revenues than they would have otherwise--and local government revenues will come from somewhat different sources. These revenue reductions will result in lower payments by people and businesses to government--and decreased spending for local public services.

Proposition 218 Changes Local Governance

In addition to changing local finance, Proposition 218 changes the governance roles and responsibilities of local residents and property owners, local government, and potentially, the state. While the full ramifications of these changes will not be known for years to come, some elements are already apparent:

Increased Role for Local Residents And Property Owners

Prior to Proposition 218, the local resident and property owner's role in approving most new local government revenue-raising measures was minimal. Local governments typically raised new funds by imposing new or increased assessments or fees, or in the case of charter cities, general-purpose taxes on utility use, business licences, and hotel occupancy. In most cases, California residents or property owners could object to these taxes or charges at a public hearing or during a statutory protest procedure, but these taxes or charges were not placed on the ballot. In short, locally elected governing bodies held most of the power over local revenue raising.

Proposition 218 shifts most of this power over taxation from locally elected governing boards to residents and property owners. In order to fulfill this considerable responsibility, local residents and property owners will need greater information on local government finances and responsibilities. Even with this information, however, the task of local residents and property owners will be difficult, given the frequently confusing manner in which program responsibilities are shared between state and local government, and among local governments.

Local Government Remains Responsible for Expenditures

Local government's powers, in contrast, become significantly constrained. While locally elected governing boards continue to be fully responsible for decision-making regarding the expenditure of public funds, they now have very little authority to raise funds without a vote of the residents or property owners. In addition, Proposition 218 limits local government's authority to call an election to raise revenues. Specifically, except in cases of emergency, local governments now may hold elections on general taxes only once every two years (consolidated with an election for members of the governing board.) Moreover, Proposition 218 limits the amount of an assessment or property-related fee that may be put before the property owners for a vote.

State Government Role May Expand

Proposition 218 may also alter the state's role and responsibilities regarding local government in several important ways. First, the Legislature will be asked to play a large role in interpreting Proposition 218's requirements, and helping set the rules regarding local government finance. In some cases, local governments are likely to ask for urgency legislation to enact these measures because the deadline for compliance with some Proposition 218 provisions is July 1, 1997.

Second, the Legislature will probably receive requests for fiscal assistance from local governments. These requests are likely to begin in the spring of 1997, as the fiscal consequences of the assessment and fee restrictions become apparent. Local governments are likely to turn to the state because it has more fiscal flexibility than local government. For example, the Legislature may raise taxes at any time with a two-thirds vote of its members.

Finally, any effort to restructure state-local program responsibilities is now more complicated. Specifically, the Legislature will have less flexibility to realign programs in a manner that increases local government responsibility without providing a direct subvention of state funds. This is because local governments have little or no flexibility to adjust their own revenues.

Chapter 2

Understanding the Vocabulary of Proposition 218

Any discussion of Proposition 218 requires an explanation of several local government finance words and terms. This chapter explains the vocabulary.

What Is a Tax?

Taxes are government's most flexible revenue raising tool. A tax is a charge on an individual or business that pays for governmental services or facilities that benefit the public broadly. There need not be any direct relationship between how much tax a person pays and how much service he or she receives from government. Example of taxes include the property tax, sales tax, business licence tax, hotel occupancy tax, and utility users tax.

Special Tax Versus General Tax

A tax is called a "special" tax if its revenues are used for specific purposes and a "general" tax if its revenues may be used for any governmental purpose. This distinction is important because it determines

whether a tax must be approved by a majority vote of the electorate (general tax)--or a two-thirds vote (special tax).

What Is an Assessment?

An assessment is a charge levied on property to pay for a public improvement or service that benefits property. Assessments are usually collected on the regular property tax bill. They are different, however, from the regular 1 percent property tax and property tax debt overrides in that assessment rates are not based on the value of the property. Assessments are also different from another charge that sometimes is placed on the property tax bill, parcel taxes. Unlike parcel taxes, assessments typically were not voter approved prior to Proposition 218. In addition, assessment rates were linked to the cost of providing a service or improvement, whereas parcel taxes could be set at any amount. Typical assessments include those for flood control improvements, streets, and lighting and landscaping.

What Is a Fee?

A fee is a charge imposed on an individual or business for a service or facility provided directly to an individual or business. Local governments charge fees for a wide range of purposes, from park entry fees to building plan check fees. The amount of the fee may not exceed the cost of government to provide the service.

A New Term: "Property-Related Fee"

Proposition 218 restricts property-related fees, defined as fees imposed "as an incident of property ownership." At this time, there is no consensus as to which fees meet this definition. The drafters of Proposition 218 indicate that it was their intent to include most fees commonly collected on monthly bills to property owners, such as those for water delivery, garbage service, sewer service, and storm water management fees. Other analysts of Proposition 218 contend that fees that vary by level of service (for example, a fee for metered water usage) should not be considered a property-related fee, because it is based on service usage, rather than property ownership. Because Proposition 218 does not restrict nonproperty-related fees, the definition of this term will be an important and sensitive issue for the Legislature and courts.

Overlapping Terms

While the terms tax, assessment, and fee are each legally distinct, in practice they overlap. For example, communities in California may finance streets from taxes, assessments, and/or fees. In addition, local government officials sometimes call a charge one term, when it was legally adopted as another. As a result, the work of sorting out whether a particular charge must comply with Proposition 218's requirements for a tax, assessment, or fee will not always be easy.

Chapter 3

Are Existing Revenues Affected by Proposition 218?

Local governments must bring their existing taxes, assessments and property-related fees into conformity with Proposition 218. The deadline for each of these actions is:

- July 1, 1997--for assessment and property-related fees.
- November 6, 1998--for taxes.

Below, we discuss Proposition 218's requirements regarding *existing* taxes, assessments, and fees. (The requirements for *new* or *increased* revenue raising tools is the topic of the next chapter.) After each section, we answer some common questions regarding Proposition 218's requirements.

Requirements for Existing Taxes

Proposition 218 does not affect existing special taxes or most general taxes. Proposition 218 affects only those *general* taxes that were imposed in 1995 or 1996 without a vote of the people.

In order to continue such a tax, Proposition 218 requires the governing body to place the tax before the voters by November 6, 1998. Unless the governing body unanimously votes to declare the election an emergency, the tax election must be consolidated with a regularly scheduled election for members of the governing body. The local government may continue an existing tax if it is approved by a majority vote.

Questions

Are general taxes imposed before 1995, without a vote of the people, safe from challenges?

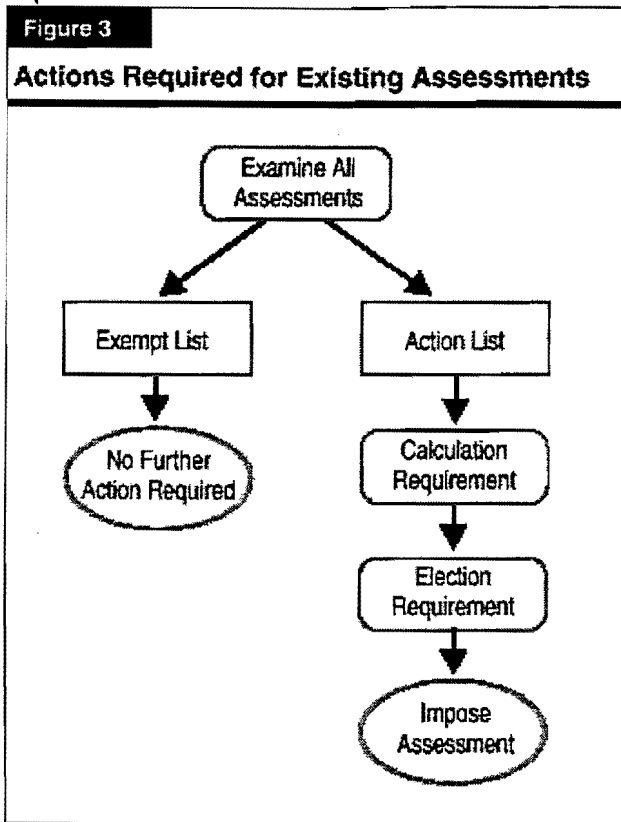
No. Our review indicates that general law cities and counties that imposed general taxes in the early 1990s, without a vote of the people, continue to be vulnerable to a challenge that they did not place their tax on the ballots required by Proposition 62. In 1995, the California Supreme Court reversed earlier lower court decisions and found Proposition 62 to be constitutional.

Are Mello-Roos taxes affected?

No. Mello-Roos taxes are not affected by Proposition 218. Mello-Roos taxes—usually imposed on new subdivisions to pay for infrastructure—are special taxes and already require a two-thirds vote. There are a very limited number of cases, however, where a local government has used Mello-Roos law to impose an *assessment* without a two-thirds vote. We believe local governments must bring these assessments into compliance with Proposition 218's assessments provisions (discussed below).

Requirements for Existing Assessments

Local governments must review all existing assessments, including standby-charges (which the measure defines as assessments). Figure 3 (see next page) shows the actions local governments must take to bring their existing assessments into compliance with Proposition 218.



**The Examination Requirement:
 Many Assessments Will Qualify for Exempt List**

Local government must examine each assessment to determine whether it meets one of the conditions for placement on the "exempt list." These conditions are:

- The assessment was previously approved by voters--or by all the property owners at the time the assessment was created.
- All of the assessment proceeds are pledged to bond repayment.
- All the assessment proceeds are used to pay for sidewalks, streets, sewers, water, flood control, drainage systems, or "vector control" (such as mosquito control).

Our review indicates that more than half of all existing assessments are likely to be exempt. Generally, this is because the assessment's funds are used for one of the approved purposes or are pledged to bond repayment--or the assessment was agreed to by a land developer, the sole property owner at the time the assessment was established.

If an assessment is not exempt, then the local government must eliminate the assessment or bring it into compliance with Proposition 218's assessment calculation and election requirements (described below). Our review indicates that the types of assessments that are not likely to satisfy any of the conditions for exemption are: fire, lighting and landscaping, and park and recreation assessments.

**The Calculation Requirement: One of
 Proposition 218's Most Significant Changes**

Local governments must recalculate all existing assessments that do not qualify for the exempt list. Our review indicates that in many cases, Proposition 218's provisions regarding the calculation of

assessments will result in local governments lowering the amount they collect in assessments from property owners, or eliminating the assessment. We identify the specific calculation provisions below.

First: Determine If a Project or Service Provides Special Benefits. The local government must determine whether property owners would receive a "special benefit" from the project or service to be financed by the assessment. Proposition 218 defines a special benefit as a particular benefit to land and buildings, not a general benefit to the public or a general increase in property values. If a project or service would not provide such a special benefit, Proposition 218 states that it may not be financed by an assessment. Our review indicates that local governments will find it difficult to demonstrate that some existing assessments for ambulance, library, police, business improvement, and other services satisfy this tightened definition of special benefit. As a consequence, some existing assessments may need to be eliminated.

Second: Estimate the Amount of Special Benefit. Local government must use a professional engineer's report to estimate the *amount* of special benefit landowners would receive from the project or service, as well as the *amount* of "general benefit." This step is needed because Proposition 218 allows local government to recoup from assessments only the proportionate share of cost to provide the special benefit. That is, if special benefits represent 50 percent of total benefits, local government may use assessments to recoup half the project or service's costs. Local governments must use other revenues to pay for any remaining costs. This limitation on the use of assessments represents a major change from the law prior to Proposition 218, when local governments could recoup from assessments the costs of providing both general and special benefits.

Third: Set Assessment Charges Proportionally. Finally, the local government must set individual assessment charges so that no property owner pays more than his or her proportional share of the total cost. This may require the local government to set assessment rates on a parcel-by-parcel basis. Properties owned by schools and other governmental agencies--previously exempt from some assessment charges--now must pay assessments.

Election Requirement: All Property-Owners Vote on Assessments

Local governments must mail information regarding assessments to all property owners. (Prior to Proposition 218, large communities could publish assessment information, rather than mail it to every property owner.) Each assessment notice must contain a mail-in ballot for the property owner to indicate his or her approval or disapproval of the assessment.

After mailing the notices, the local government must hold a public hearing. At the conclusion of the hearing, the local government must tabulate the ballots, weighing them in proportion to the amount of the assessment each property owner would pay. (For example, if homeowner Jones would pay twice as much assessment as homeowner Smith, homeowner Jones' vote would "count" twice as much as homeowner Smith's vote.) The assessment may be imposed only if 50 percent or more of the weighted ballots support the assessment.

Questions

Would part, or all, of an assessment be exempt if most of its proceeds are used for an approved program?

Probably not. Proposition 218 states that an assessment is exempt if its proceeds are used exclusively for one or more of seven approved programs. However, the measure does not define what costs may be included under these approved programs. Thus, it is not clear if an assessment that funds streets (an approved program) and curbs or street lighting (not identified as approved programs) is exempt. Legislative action may be needed to clarify this.

Is the difference between "general benefit" and "special benefit" clear?

No. Proposition 218 defines a "special benefit" as a distinct benefit to real property in a specific area. All other benefits—including benefits to people's health, education, or safety, or general enhancements to property values—are considered "general benefits." While these two benefits are distinct in concept, in practice they may be difficult to distinguish. Because of the importance of the term "special benefit," legislative or court action may be needed to clarify its definition.

Do renters get to vote?

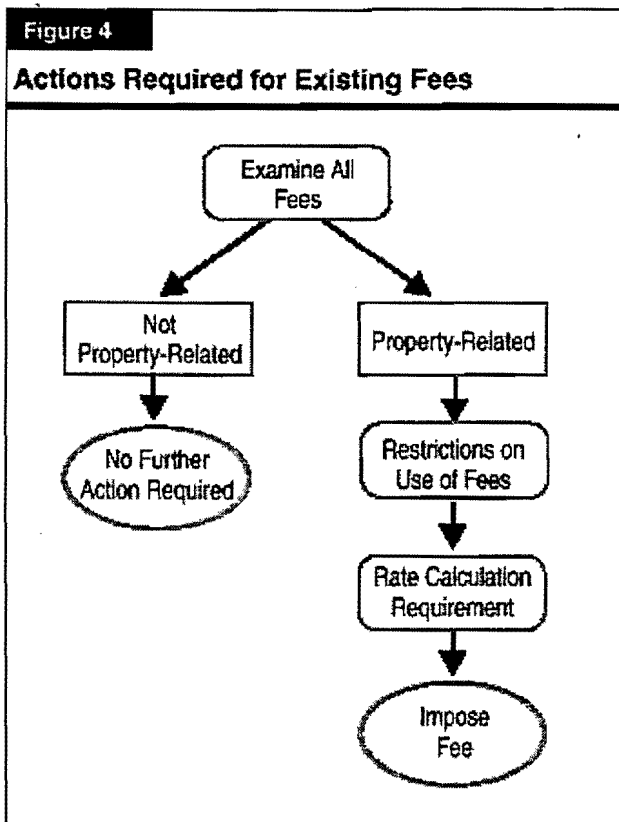
Renters may vote on an assessment if their lease agreement specifies that they are responsible for paying the assessment. This type of provision in a lease agreement is more common for commercial properties than for residential properties.

Who gets to vote when an assessment is to be levied on public property or properties with multiple owners?

This is not addressed in the measure. Thus, it would require clarification.

Requirements for Existing Fees

As with assessments, local governments must complete a multi-step review of all fees. Figure 4 summarizes the process.



**Examination Requirement:
 Identifying Property-Related Fees**

Local government must begin by examining all existing fees to determine whether they are "property-related" fees, imposed as an "incident of property ownership." (We discuss this term and the controversy surrounding it in Chapter Two). As Figure 4 shows, if a fee is *not* property-related, then the local government need not take any further action regarding the fee. Conversely, if the fee is property-related, then the local government must make sure that the fee complies with Proposition 218's restrictions on use of fee revenues and the rate calculation requirements. The deadline for these actions is July 1, 1997.

New Restrictions on Use of Fees

Proposition 218 specifies that no property-related fee may be:

- Levied to pay for a general governmental service, such as police or fire service.
- Imposed for a service not used by, or immediately available to, the property owner.
- Used to finance programs unrelated to the property-related service.

In order to comply with these restrictions, local governments will need to eliminate or reduce some existing fees. For example, some small cities currently charge property owners fees for ambulance or fire service. Proposition 218 does not permit governments to impose property-related fees for these purposes.

Similarly, some cities collect "franchise fees" or "in-lieu property taxes" from their water departments and deposit these revenues into their general funds. The cost of these franchise fees and taxes is passed onto local residents in terms of higher water fees. If water fees are considered property-related fees, then

Proposition 218 would forbid this diversion of fee revenues. (Some local government observers believe that this diversion of fee revenues was impermissible *prior* to Proposition 218, as well.)

Possible Local Government Response to Fee Restrictions. In some cases, it may be possible for a local government to restructure a property-related fee so that it would no longer be considered a fee imposed "as an incident of property ownership." For example, a mandatory per parcel garbage collection fee may be considered a property-related fee, while an optional garbage collection service charge may not. Similarly, some local governments may be able to show that their franchise fee or in-lieu property tax represents their water department's reasonable share of central administrative expenses. If so, then Proposition 218 would not prohibit this transfer of revenues from the water department. Finally, some local governments may elect to privatize certain functions formally financed by property-related fees. Proposition 218 imposes no limit on private fees.

Fee Rate Calculation Requirement

After complying with Proposition 218's restrictions on the use of property-related fees, the local government must make sure that its property-related fees comply with the measure's calculation requirements. Specifically, local governments must make sure that no property owner's fee is greater than the proportionate cost to provide the property-related service to his or her parcel. Like assessments, this requirement may result in local governments setting property-related fee rates on a block-by-block, or parcel-by-parcel basis.

This fee rate calculation requirement--sometimes called the "proportionality" requirement--will make it difficult for local government to continue certain programs, such as those that offer reduced rates to low-income residents. This is because local governments typically finance these lower rates by charging higher rates to other property-owners. If these fees are considered property-related fees, the higher rates would not be permitted by Proposition 218. In order to continue these programs in the future, therefore, the local government would need to offset the cost of the program with other revenues, such as general tax revenues.

Question

Are regulatory fees—such as rent control, alarm, and weed abatement fees—considered property-related fees?

This is not clear. Generally, we interpret Proposition 218's term "property-related fees" as including all fees that a property owner has no feasible way to avoid. That is, a fee is property-related if land could not be owned and used without paying the fee. Accordingly, we do not consider fees for optional activities, such as the registration of alarm systems or the removal of weeds from neglected parcels, to be property-related. Rent control administrative fees are a closer call. Generally, we think these fees would be considered property-related if there were no practical way that the owner could avoid the fee, short of selling the property or fundamentally changing its use. Clearly, the definition of property-related fees will be a sensitive and important issue for the Legislature and courts.

Chapter 4

What Must a Local Government Do to

Raise New Revenues?

In order to raise a new tax, assessment, or property-related fee, or to increase an existing one, local governments must comply with many of the same provisions discussed in the previous chapter. In general, these requirements are that local governments may use assessments and property-related fees only to finance projects and services that directly benefit property--and that most revenue-raising measures be approved in an election. Figure 5 summarizes the vote required in these elections.

Figure 5

New or Increased Taxes, Assessment, and Fees
What Vote is Needed?

Type	Vote Needed	Who Votes	Vote Requirement
Taxes			
General	Yes	All voters in community or affected area.	Majority
Special	Yes	All voters in community or affected area.	Two-thirds
Assessments			
All	Yes	Property owners (and renters responsible for paying assessments) in affected area.	Majority, weighted in proportion to assessment liability.
Fees			
General, not property related	No	N/A	N/A
Property related	Yes, for any service other than water, sewer, or refuse collection.	Local government may choose: • Property owners (and renters responsible for paying fee) in affected area, or • Electorate in the affected area.	Majority of property owners or two-thirds of electorate. Local governments may weight ballots in proportion to fee liability.

This chapter explains the steps local government must take to raise a new tax, assessment or property-related fee, or to increase an existing one.

Requirements for New Taxes

In order to impose or increase a tax, local government must comply with the following provisions:

- ❑ All general taxes must be approved by a majority vote of the people. (A 1986 statutory initiative--Proposition 62-- previously imposed this vote requirement on *general law* cities and counties. Proposition 218 expands this requirement to include *charter* cities, such as Los Angeles, Oakland, and San Francisco.)
- ❑ Elections for general taxes must be consolidated with a regularly scheduled election for members of the local governing body. (In an emergency, this provision may be waived by a unanimous vote

of the governing body.)

- Any tax imposed for a specific purpose is a "special tax," *even if its funds are placed into the community's general fund.* (Prior to Proposition 218, all taxes placed into a community's general fund were commonly considered general taxes, requiring only a majority vote.)

Requirements for New Assessments

All new or increased assessments must follow the assessment calculation and election requirements discussed in the previous chapter. There are no exceptions to this requirement.

As a practical matter, this requirement will mean that programs that benefit people, rather than specific properties--such as libraries, mosquito abatement, recreation programs, police protection, and some business improvement programs--must be financed by general or special taxes or by other nonassessment revenues.

Questions

Must a local government comply with both Proposition 218's assessment approval process and the existing statutory process for assessment approval?

Following both of these assessment approval processes is likely to be duplicative and confusing to property owners. Most local government observers agree that some legislative action to reconcile the two assessment approval processes is needed.

Is an assessment considered "new or increased" if it is raised by a cost-of-living factor that was part of the assessment's rate structure?

This is not clear. Proposition 218 states that a tax is not to be considered new or increased if it is increased to a level previously approved by the voters. However, the measure does not include any such provision regarding assessments or fees. It is possible that any increase in assessments may be subject to the new calculation and election requirements.

Requirements for New Fees

To impose a new or increased property-related fee, local government must comply with the fee restriction and fee rate calculation requirements discussed in the last chapter.

Local governments must also:

- Mail information regarding the proposed fee to every property owner.
- Hold a hearing at least 45 days after the mailing.
- Reject the proposed fee if written protests are presented by a majority of the affected property owners.
- Hold an election on any property-related fee, other than a fee for water, sewer, or refuse collection. (Figure 5 shows the vote required in these elections.)

As a practical matter, local governments will find it much more difficult--and expensive--to impose or increase property-related fees. In some cases, local governments are probably more likely to try to raise revenues through non property-related fees or taxes.

Question

Could a local government impose a charge on property owners that is not an assessment, tax, or property-related fee?

No. Proposition 218 states that all charges on property as an incident of property ownership must be a tax, assessment, or property-related fee. Proposition 218 further states that if such a charge on property is not a tax or an assessment, it is a property-related fee.

Chapter 5

May Residents Overturn Local Taxes, Assessments, and Fees?

Proposition 218 expands California residents' power to challenge local revenue raising measures.

Greater Initiative Powers

Prior to Proposition 218, the extent to which local residents could use an initiative to challenge local government revenue raising methods was not certain. In a 1995 case, *Rossi v. Brown*, the California Supreme Court ruled that people had the power to use the initiative to repeal a minor tax. There have been no court rulings, however, addressing the question of whether an initiative may be used to repeal a more substantial revenue source.

Proposition 218 eliminates any ambiguity regarding the power of local residents to use the initiative by stating that residents of California shall have the power to repeal or reduce *any* local tax, assessment, or fee. In addition, the measure forbids the Legislature and local governments from imposing a signature requirement for local initiatives that is higher than that applicable to statewide statutory initiatives. As a consequence of these provisions, the only limits on local residents' ability to overturn local revenue raising measures appear to be those in the federal constitution, such as the federal debt impairment clause.

Question

Could a local initiative or lawsuit eliminate a revenue stream that is pledged to bond repayment?

This question has evoked considerable controversy. Generally, many bond specialists indicate that the debt impairment clause in the federal constitution would prevent local residents from eliminating a new or existing revenue stream if that action would jeopardize the security of bonded indebtedness. Some local government observers, however, would like the Legislature to place a time limit on local initiatives or take other action to provide greater security to bond holders.

Shift of Burden of Proof

Prior to Proposition 218's passage, the courts allowed local governments significant flexibility in determining fee and assessment amounts. A business or resident challenging the validity of a fee or assessment carried the "burden of proof" to show the court that the fee or assessment was illegal. Proposition 218 changed this legal standard by shifting the burden of proof to local governments. Now local governments must prove that any disputed fee or assessment charge is legal.

Appendix I:

Areas in Which Legislative or Judicial Clarification May Be Needed

As we discuss throughout this guide, while Proposition 218 is quite detailed in many respects, some important provisions are not completely clear. This appendix summarizes the major questions regarding Proposition 218 that must be resolved so that local governments can begin implementation.

Because Proposition 218 sets a July 1, 1997 deadline for local governments to bring existing fees and assessments into conformity with the measure's requirements, legislative or judicial clarification on questions related to assessments and fees is needed as soon as possible.

Property-Related Fees

- What is included in the definition of a property-related fee?
- Are water charges that are based on metered use of water property-related fees?
- Are regulatory fees, such as rent control administrative fees, property-related fees?
- Are lease payments and other such charges on government-owned assets property-related fees?
- How precisely must local government allocate shares of costs for a property-related service? Can local government set general fee rate categories, or must local government determine the actual cost of service to every parcel?

Assessments

- What is a "special benefit" and how can it be distinguished from a "general benefit?"
- Existing assessments used exclusively for sidewalks, streets, sewers, water, flood control, drainage systems, and vector control are exempt from the measure's calculation and election requirements. How broadly should these exemptions be interpreted?
- How precisely must local government allocate shares of costs for an assessment? Can local government set general assessment rate categories, or must local government determine the actual cost of service to every parcel?
- If an existing assessment is increased by a formula that was set forth at the time the existing assessment was imposed, must the assessment comply with the measure's calculation and election requirements? Similarly, need the measure go through these processes again if a *future* assessment is increased by a formula set forth at the time the new assessment was imposed?
- How should the existing statutory assessment approval process be reconciled with Proposition 218's assessment approval process?
- Some assessments are annually re-imposed by local government. Must a local government annually repeat the calculation and election procedures required by Proposition 218?
- If an assessment that is annually re-imposed by local government is currently eligible for the exempt list, must it comply with Proposition 218's calculation and election procedures when it is re-imposed next year?

Elections

- What procedures should govern the assessment and fee elections?
- Who may vote on referendums to repeal assessments, fees, or taxes?
- How will a local government determine whether a renter is eligible to vote?
- Who gets to vote when a parcel is owned by multiple parties, or by a governmental entity?

Taxes

- Are Mello-Roos taxes affected in any way? Similarly, how should assessments imposed under Mello-Roos law be treated?
- Is the measure's requirement that certain existing taxes be ratified by the voters an unconstitutional referendum on taxes?

Debt

- Could a local initiative jeopardize a revenue stream pledged to the payment of existing (or future) debt?

Appendix II:



Office of the COUNTY CLERK-RECORDER

COUNTY OF SAN LUIS OBISPO

1144 MONTEREY ST. STE. A

SAN LUIS OBISPO, CALIFORNIA 93408 AC/805 781-5243

JULIE L. RODEWALD
COUNTY CLERK-RECORDER

JANET HALEY
DEPUTY REGISTRAR OF VOTERS

January 15, 1997

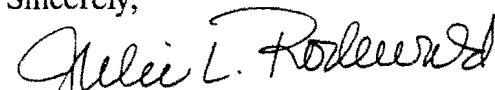
Secretary
Nipomo CSD
PO Box 326
Nipomo CA 93444

Dear District Secretary:

As I am sure you are aware, the recent passage of Proposition 218 may require districts to conduct an election for existing fees/taxes by July 1, 1997. Enclosed you will find an activity schedule for an election date of June 3, 1997. If your district decides that it must call an election the activity schedule sets out the dates and deadlines required by the Elections Code.

If you have any questions, please feel free to contact either Janet Haley or myself.

Sincerely,


Julie L. Rodewald
County Clerk-Recorder

RECEIVED

JAN 16 1997

NIPOMO COMMUNITY
SERVICES DISTRICT

**JUNE 3, 1997 SPECIAL ELECTION (PROPOSITION 218)
ACTIVITY SCHEDULE FOR PLACING A MEASURE ON THE BALLOT**

- | | | |
|---|---|--|
| FEBRUARY 20, 1997
(103 Days)
E.C. Sec. 9310(b) | - | Earliest day that Special Election can be called by Governing Board. |
| FEBRUARY 28, 1997
(95 Days)
E.C. Sec. 9140, 9310(b), | - | LAST DAY for Governing Boards to submit copies of their resolution calling the election to the County Clerk. Resolution must contain the full text of the measure. |
| FEBRUARY 28, 1997
(95 Days)
E.C. Sec. 10402 &
10403 | - | LAST DAY to file with the Board of Supervisors and a copy with the County Clerk a resolution requesting consolidation and setting forth the exact form of the question as it is to appear on the ballot. |
| MARCH 7, 1997
(88 Days) | - | COUNTY CLERK to publish the Notice calling for "Submission of Arguments". |
| MARCH 14, 1997
(81 Days)
E.C. Sec. 9163 & 9316 | - | LAST DAY arguments FOR or AGAINST the Measure may be filed with the County Clerk. |
| MARCH 24, 1997
(71 Days)
E.C. Sec. 9167 & 9316 | - | LAST DAY Rebuttal Arguments (if applicable) may be filed with the County Clerk. |
| MARCH 24, 1997
(71 Days)
E.C. Sec. 9160 & 9313 | - | Impartial Analysis due from County Counsel. |
| MARCH 24, 1997
(71 Days)
E.C. Sec. 9160 | - | Fiscal Impact Statement due from Auditor (if applicable) |
| MARCH 25, 1997
(70 days)
E.C. Sec. 9190 & 9380 | - | FIRST DAY of the Public Examination period. |
| APRIL 4, 1997
(60 Days)
E.C. Sec. 9190 & 9380 | - | LAST DAY of the Public Examination Period. |
| MAY 5, 1997
(29 Days) | - | CLOSE OF REGISTRATION - FIRST DAY FOR ABSENTEE BALLOTS |
| MAY 27, 1997
(7 Days) | - | LAST DAY to mail Absentee Ballots |



GOVERNOR'S OFFICE

January 13, 1997

Mr. Doug Jones
General Manager
Nipomo Community Services District
Post Office Box 326
Nipomo, California 93444

Dear Mr. Jones:

Thank you for your correspondence urging my approval of Assembly Bill 2797. After a careful review of all the consequences involved with approving this legislation, I decided to veto this measure. A copy of my veto message is enclosed for your information.

Please be assured that I am doing my best to strengthen California's leadership role in education, public safety, health care, job opportunities and many other important state activities and programs. Although approaches to specific issues may vary, I am hopeful that all Californians will join together in addressing these critical challenges.

Thank you again for sharing your concerns with me.

Sincerely,

A handwritten signature in black ink that reads "Pete Wilson".

PETE WILSON

Enclosure

RECEIVED

JAN 21 1997

NIPOMO COMMUNITY
SERVICES DISTRICT



GOVERNOR PETE WILSON

SEP 29 1996

To the Members of the California Assembly:

I am returning Assembly Bill No. 2797 without my signature.

This bill would freeze the property tax revenue transfer to the Educational Revenue Augmentation Funds (ERAF) in the 1996-97 level. In addition, this bill would repeal the use of ERAF for Special Education programs beginning in fiscal year 1997-98.

This property tax shifts of 1992-93 and 1993-94 were necessary to meet the constitutional obligations of Proposition 98. Because the ERAF is used to offset General Fund support for K-14, the redirection of the growth to local agencies would result in significant General Fund costs. While the provisions of this bill would hold Proposition 98 harmless, it would require, over approximately a 5-year period, that almost \$1 billion from non-Proposition 98 General Fund programs, such as Corrections, Higher Education and programs which support local governments, be reduced in order to continue to fund Proposition 98.

Numerous issues affecting local government finance, including trial court funding and welfare reform will require legislative resolution next year. In addition, two propositions on the November ballot would affect local government finances. Finally, any attempt to stimulate home construction by giving local governments a fiscal incentive to approve development plans should be coupled with a serious review of developer fees and other impediments to such construction.

I recognize that local governments, like the state, have had to make significant budget adjustments over the last few years as a result of the recession that plagued California in the early 1990's. Nevertheless, given the complexity of the issues confronting the State and local governments, it is inappropriate to approve a piecemeal approach to local government financing reform. A comprehensive approach should be considered next year as a part of the budget process.

Cordially,

A handwritten signature in black ink that reads 'Pete Wilson'.

PETE WILSON

WARRANTS FEBRUARY 5, 1997

HAND WRITTEN CHECKS

<u>CHECK #</u>	<u>NAME</u>	<u>AMOUNT</u>
17848	TLC BACKHOE	51,862.50

VOIDS

ck# 8809, 8815
2124-2125

NET PAYROLL

ck#2126-2132 \$11,420.17

COMPUTER GENERATED CHECKS

8810	01/31/97	EMPLOYMENT DEVELOPMENT DEPARTMENT	\$797.35
8811	01/31/97	DOUG JONES	\$300.00
8812	01/31/97	MID STATE BANK	\$3,760.93
8813	02/01/97	DANA PROPERTIES	\$205.90
8814	02/01/97	J.O. MILLER	\$1,980.00
8816	02/05/97	ALL PURE CHEMICAL CO	\$441.03
8817	02/05/97	ARROYO WATER WELL SUPPLY	\$1,189.12
8818	02/05/97	ROBERT BLAIR	\$100.00
8819	02/05/97	CALIFORNIA APPLIED TECHNOLOGIES	\$687.49
8820	02/05/97	CHEVRON	\$78.87
8821	02/05/97	CHRISTIANSON CHEVROLET-OLDSMOBILE	\$13.64
8822	02/05/97	EASTER RENTS	\$61.13
8823	02/05/97	FGL ENVIRONMENTAL ANALYTICAL CHEMIST	\$150.40
8824	02/05/97	KATHLEEN FAIRBANKS	\$100.00
8825	02/05/97	J FITCH COMPUTING SERVICE	\$225.00
8826	02/05/97	GOVERNING	\$15.00
8827	02/05/97	GTE CALIFORNIA INCORPORATED	\$52.35
8828	02/05/97	JOHNSON, DONNA	\$979.24
8829	02/05/97	GENE KAYE	\$150.00
8830	02/05/97	ALEX MENDOZA	\$100.00
8831	02/05/97	MISSION UNIFORM SERVICE	\$157.20
8832	02/05/97	NIPOMO AUTO PARTS	\$6.20
8833	02/05/97	NIPOMO CHEVRON	\$423.50
8834	02/05/97	NIPOMO GARBAGE COMPANY	\$52.80
8835	02/05/97	NIPOMO REXALL DRUG	\$45.16
8836	02/05/97	PERS HEALTH BENEFIT SERVICES	\$2,620.23
8837	02/05/97	PIONEER EQUIPMENT CO.	\$32.19
8838	02/05/97	RUSSCO	\$41.88
8839	02/05/97	SAN LUIS OBISPO COUNTY CLERK RECORDER	\$1,963.59
8840	02/05/97	SAN LUIS OBISPO COUNTY HEALTH DEPART	\$493.00
8841	02/05/97	ALBERT SIMON	\$150.00
8842	02/05/97	SOARES VACUUM SERVICE	\$180.00
8843	02/05/97	SYLVESTER'S SECURITY ALARMS, INC.	\$35.00
8844	02/05/97	TERRATECH, INC	\$510.92
8845	02/05/97	FLOYD V. WELLS, INC.	\$6,114.26