

NIPOMO COMMUNITY SERVICES DISTRICT AGENDA

REGULAR BOARD MEETING MAY 21, 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**

John
32
20
6.4
15
\$ 7.9

CALL TO ORDER AND FLAG SALUTE ROLL CALL APPROVAL OF MINUTES

1. REGULAR MEETING OF MAY 7, 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. PUBLIC HEARING -
ADJUSTMENT OF TOWN AND BLACK LAKE DIVISIONS MONTHLY SEWER USER FEES
Second reading of an Ordinance increasing monthly sewer user fees \$2/mo. for the Town Division and \$4/mo. for the Black Lake Division.
4. PROPOSED ADJUSTMENT OF DISTRICT CAPACITY CHARGES AND INSTALLATION FEES
Review District water and wastewater facility capacities.
Introduction of an ordinance modifying water capacity charges and connection fees.
5. LAFCO LETTER ON WATER SERVICE AREAS
 1. LAFCO requesting NCS D and Cal Cities work together on water service areas.
 2. Service outside District boundary (Moore Property).
6. TRACT 1813 (SKYLARK PARK)
Accept water & sewer improvements constructed in Tract 1813 off the S. Frontage Rd.
7. MINUTES OF SAFETY MEETING
Accept and file Minutes of the May 17, 1997 Safety Meeting.

FINANCIAL REPORT

8. APPROVAL OF WARRANTS

OTHER BUSINESS

9. MANAGER'S REPORT
 1. Pismo Beach letter on District Coastal Valve
 2. SLO CSDA meeting May 22, SLO Library
 3. Budget study session
10. DIRECTORS COMMENTS
11. PUBLIC COMMENTS

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL

- Existing litigation GC§ 54956.9
1. NCS D vs. Shell Oil, et. al. Case No. CV 077387
 2. Brenizer vs NCS D, Case No. SC 90130

*GC§ refers to Government Code Sections

ADJOURN

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

REGULAR BOARD MEETING MAY 7, 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

President Fairbanks called the meeting to order at 7:00 p.m. and led the flag salute.

ROLL CALL

At Roll Call, all Board members were present.

APPROVAL OF MINUTES

1. REGULAR MEETING OF APRIL 16, 1997
Upon motion of Director Blair and seconded by Director Simon, the Board unanimously approved the Minutes of the April 16, 1997 meeting.

PUBLIC COMMENTS PERIOD

2. PUBLIC COMMENTS
Public comments on matters other than scheduled items. Presentations limited to three (3) minutes
President Fairbanks opened the meeting to public comment. There were none.

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

3. PUBLIC HEARING - ADJUSTMENT OF DISTRICT CAPACITY CHARGES AND CONNECTION/METER FEE
Second reading of an Ordinance adjusting District water and sewer capacity charges (Developer fees) and water connection/meter fees.

Mr. Jones explained that the Board introduced and had the first reading of Ordinance 97-84 which adjusts the water and sewer capacity charges (developer fees) and connection/meter fees. Board discussion included Director Simon concerned with commercial prices for larger meters. Mr. Jones explained that the prices are based on flow.

Public Comment- Jack Stoddard felt prices were growth inhibiting.

John Snyder did not agree with Boyle Engineering figures.

Cees Dobbe (620 Black Ridge Lane) and Allan Gallon (752 Beverly Dr.) commented on rates.

Director Simon made a motion to postpone the rate increase until Jan. 1998 when we have more information. (Vote - Simon & Blair - Yes, Kaye, Mendoza & Fairbanks - No) Motion failed. Dir. Simon withdrew his motion.

Director Kaye made a motion to adopt Ordinance 97-84. Director Blair seconded for discussion purposes only. (Vote - Kaye & Mendoza - Yes, Blair, Simon and Fairbanks - No) Motion failed.

Legal Counsel, Jon Seitz, said that staff can look at other districts to compare.

Director Blair made a motion to table the issue and directed staff to look at commercial rates and analysis of capacity issues with comparison to other agencies and the capital draw on existing system. Motion seconded by Director Kaye. Motion passed unanimously.

Director Kaye made a motion to consider the sewer only portion of Ord. 97-84 deleting Sections "3", "4", "5", & "6" and continue water capacity fees. Director Mendoza seconded. Motion passed with Director Blair voting no.

Director Kaye made a motion to read Ord 97-84 in title only. Director Mendoza seconded. Motion passed with Director Simon voting no.

Director Kaye made a motion to adopt Ordinance 97-84 with Sections 3, 4, 5 & 6 deleted. Director Mendoza seconded. Motion passed with Director Blair voting no.

Cees Dobbe commented that half of a bad thing is still a bad thing.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 97-84
AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO:
1. ESTABLISH CAPACITY CHARGES FOR SEWER SERVICE;
2. AMEND ADMINISTRATIVE PROCEDURES**

4. **REVIEW SEWER USER FEES**

Introduction of an ordinance adjusting sewer user fees for the Town and Black Lake Divisions and setting a date for a Public Hearing.

Mr. Jones explained that there may not be not enough reserves in the Black Lake Sewer fund to cover the Operations and Maintenance and recommended a loan from the Black Lake Water Fund to the Black Lake Sewer Fund. The Black Lake Advisory Committee approved a \$20.00 sewer user fee to be effective July 1, 1997 and to be reviewed the fourth quarter of 1998. The sewer user fee for the Town Division will be increased to \$18.00/mo.

Jack Stoddard commented that \$16.00 from Day 1 of annexation to the District was probably unrealistic but that \$20 is realistic if you look at costs.

Director Simon made a motion to accept introduction of Ordinance 97-85 and set a Public Hearing for May 21, 1997. Director Kaye seconded the motion. Motion passed with Director Blair voting no.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 97-85
AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH MONTHLY RATES FOR SEWER SERVICE**

5. REVIEW WATER USER FEES

Review of proposed monthly water user fees for the Town and Black Lake Divisions.

Mr. Jones explained that staff met with the Black Lake Advisory Committee to and reviewed the proposed sewer and water rates for the Black Lake area. The BLAC recommended to freeze the existing water rates until a rate study is conducted. The study would be funded through their Homeowner's Association. Director Kaye recommends a new study for the Town Division.

Jack Stoddard - uncomfortable with proposed rates.

Black Lake Advisory Committee recommends freezing rates to allow them to make an independent rate study. Review useful and potential life of facilities. Look at energy deregulation.

If the study is fair and justifiable, Mr. Stoddard will support rates and will tell BLAC to support it. The Home Owner's Associations will fund study, They have a meeting May 13, 1997. Study will be complete by end of calendar year.

John Snyder commented on rate increase in relation to replacement and recommended to redo the rate study.

Cees Dobbe - feels electricity rates are a large portion of budget.

Director Simon made a motion to postpone rate increase to the Town and Black Lake Divisions and allow the Black Lake Group to perform a rate study and to perform rate study for both divisions. Director Kaye seconded. Motion passed unanimously.

6. BLACK LAKE SEWER ALIGNMENT

Review remedies for a flat sewer line in Black Lake Golf Course.

Mr. Jones explained that the Black Lake Advisory Committee reviewed the problem of an eight-foot+ section of the sewer line on the golf course that was not constructed to the original plans.

Jack Stoddard stated that the problem was an engineering error in staking the grade. He believes flushing valve or flushing manhole is the answer even though Garing, Taylor & Assoc. doesn't recommend it. He recommends the Board, at direction of BLAC, accept offer from developer of Tract 1912

Director Simon supports Mr. Stoddard's recommendation and trusts his opinion.

Director Kaye asked about the cost of maintenance of a flushing valve.

Mr. Stoddard suggests that as long as Black Lake has to pay, then it should be done their way.

This will be taken up in Closed Session

7. UNAUTHORIZED WATER USE - TRACT 2151

Prohibited use of unmetered water by contractor of Tract 2151.

Mr. Jones explained the circumstances of the use of water from a fire hydrant without a meter. Mr. Stoddard suggested that a technical violation occurred due to extenuating circumstances.

Charles Pratt - said NCSD attorney misstated the fact.

Mr. Seitz and Mr. Pratt discussed connection to Tract 1409.

Director Kaye said BLAC recommends waiving fine.

Pat Speer - went to NCSD with full intent to sign up for meter.

Board discussion.. Director Kaye, as a good faith gesture made a motion to waive fee based on the recommendation of BLAC and that it was an honest, technical mistake. Director Simon seconded. Motion passed unanimously.

FINANCIAL REPORT

8. THIRD QUARTER FINANCIAL REPORT

The Third Quarter Financial Report was presented to the Board. Doug recommends a study session on Enterprise, Non-Enterprise Funds, Fund Accounting and Government Code. Jon suggested that these funds can be addressed in rate study.

John Snyder- 662 Eucalyptus Rd. (outside District) concerned about Financial Status of NCSD . Rates need to cover Operation and Maintenance, however, may need to have big water rate increase in the future to buy supplemental water because NCSD is infringing on his water rights.

9. APPROVAL OF WARRANTS

Upon motion of Director Kaye and seconded by Director Blair, the Board unanimously approved the Warrants presented at the May 7, 1997 Regular meeting.

OTHER BUSINESS

10. MANAGER'S REPORT

Manager Doug Jones presented information on the following items. Director Blair will attend CSDA local meeting May 22, 1997

1. Phase 1 Environmental Assessment of 20-acre acquisition
2. County Clerk Schedule for Nov. 4, 1997 General Election
3. New Office Building update
4. Chamber of Commerce Trade Fair

11. DIRECTORS COMMENTS

Director Kaye is happy the Sewer Capacity fee is lowered.

Mr. Jones and Director Blair reported on the conference in Lake Tahoe.

WRAC meeting May 7, 1997 approved request for valve in State Pipe line. Will go to Board of Supervisors next.

Sanitary survey should be complete by the end of May.

12. PUBLIC COMMENTS

John Snyder handed out information to the Board. He thinks that Hatch and Parent has a conflict of interest with Cal Cities. You (the Board) need to look very closely at Board should look very xclosely at what Hatch and Parent said about the basin and the PUC rate increase.

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL

1. Existing litigation GC§ 54956.9
NCSD vs. Shell Oil, et. al. Case No. CV 077387
2. Anticipated Litigation, GC§ 54956.9(c)

*GC§ refers to Government Code Sections

ADJOURN

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 21, 1997

SECOND READING OF ORDINANCE
ADJUSTING MONTHLY SEWER USER FEES

At the Regular Board Meeting held on May 7, 1997, your Honorable Board introduced and had the first reading of an ordinance which adjusts the monthly sewer user fees for the Town (\$16 to \$18/mo.) and Black Lake Divisions (\$16 to \$20/mo.). These fees have previously been reviewed by the Board's financial committee and the Black Lake Advisory Committee.

Now is the time to hold a Public Hearing to take public comments on the proposed adjustments of the monthly sewer user fees. After the Public Hearing, the second reading and adoption would be in order. This ordinance would become effective on July 1, 1997.

After the close of the Public Hearing, a motion and a second would be in order to have the second reading of Ordinance 97-85. A second to the motion and a Roll Call vote is necessary. After the reading of the ordinance, a motion would be in order to adopt Ordinance 97-85, followed by a Roll Call vote.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 97-85**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH MONTHLY RATES FOR SEWER SERVICE**

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

WHEREAS, the District has completed a water and wastewater rate study and comprehensive financial plan (Financial Plan.) The Financial Plan includes an analysis of both operating and non-operating District rates and charges. The purpose of the Financial Plan is to assess the District's revenue requirements and provide an independent evaluation of the fairness and equity of the District's rate and charge structure; and

WHEREAS, the Financial Plan was received and filed on April 27, 1996, and has been available to the public since that date; and

WHEREAS, the Financial Plan demonstrates the necessity to modify the District's monthly sewer user fees for the Town Division and the Blacklake Division indentified on Exhibit B to the Appendix to Chapter 4.12 ; and

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

- A. This public meeting has been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act); and that the District has complied with the requirements of Government Code Section 66016; and
- B. The fees that are the subject of this Ordinance, do not exceed the estimated reasonable cost of providing the services for which the fees are imposed; and
- C. The existing Folkert Oaks Standby Charge identified in Exhibit B in the Appendix to Chapter 4.12 is used exclusively to finance the capital and maintenance and operations costs fo the community sewer system.

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

Section 1. Authority.

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

Section 2. Section 3.03.180B.

Section 3.03.180B is amended to read:

"District monthly sewer user fees are set forth in the Appendix to Chapter 4.12 as Exhibit B."

Section 4. Section 4.12.150A.

Section 4.12.150A is amended to read as follows:

"A. Monthly user fee (based upon the dwelling unit equivalent of each customer as determined by the District). A monthly sewer user fee is set forth in the Appendix to this Chapter 4.12 as Exhibit B;"

Section 5. CEQA Finding.

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

Section 6. Repeal of Prior Ordinances and Resolutions.

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

Section 7. Repeal Shall not Revive any Ordinances.

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

Section 8. Effect of Repeal on Past Actions and Obligations.

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

Section 9. Severance Clause.

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

Section 10. Effect of Headings in Ordinance.

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

Section 11. Effective Date.

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

Introduced at a regular meeting of the Board of Directors held on May 7, 1997, and passed and adopted by the Board of Directors of the Nipomo Community Services District on the ____ day of _____, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

KATHLEEN FAIRBANKS
President of the Board
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

DONNA K. JOHNSON
Secretary to the Board

JON S. SEITZ
General Counsel

**Appendix to Chapter 4.12
Exhibit B
Bi-Monthly Sewer User Fees**

Bi-Monthly Operation & Maintenance Charge	Per DUE
All sewer customers Town Division	\$36.00
All sewer customers Black Lake Division	\$40.00
Montecito Verde II Sewer Maintenance District	\$28.00
Folkert Oaks Sewer Maintenance District	\$12.00
Folkert Oaks Sewer Stand-by Charge	\$ 6.00

ncsd\ord\97-85 4/30/97

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 97- CAPACITY**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO:
1. ESTABLISH CAPACITY CHARGES FOR WATER SERVICE;
2. AMEND ADMINISTRATIVE PROCEDURES**

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

WHEREAS, the District has completed a water and sewer comprehensive Financial Plan. The Financial Plan includes an analysis of both operating and non-operating District rates and charges. The purpose of the Financial Plan is to assess the District's revenue requirements and provide an independent evaluation of the fairness and equity of the District's charges, and

WHEREAS, the Financial Plan was received and filed on April 27, 1996, and has been available to the public since that date; and

WHEREAS, the Financial Plan demonstrates the necessity to modify the District's connection and capacity charges to the District's domestic water and sewer system, and

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

- A. This public meeting has been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act); and that the District has complied with the requirements of Government Code Section 66016; and
- B. The fees and charges, for development within the District that are the subject of this Ordinance, do not exceed the estimated reasonable cost of providing the services for which the fees and/or charges are imposed; and
- C. That the public benefits from the logical, long-range approach to financing of public facilities:

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

Section 1. Authority.

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

Section 2. Section 3.03.190.

Section 3.03.190 of the District Code is hereby repealed in its entirety and replaced with the following:

"Collection of delinquent charges with taxes.

A. The Board of Directors adopts the procedures for the collection of rates, charges and fees for nonpayment of delinquent bills established in Government Code Sections 61621, 61621.2 and 61621.3 or any successor statutes.

B. Remedies for collection and enforcement for nonpayment of delinquent rates, charges and fees are cumulative and may be pursued alternatively or consecutively by the District. The General Manager or his/her designee is authorized to record a Certificate specifying the amount of such charges and fees and the name and address of the persons liable therefore, 60 days after the payment becomes delinquent, pursuant to Government Code Section 61621."

Section 3. Section 3.04.060A and A1.

Sections 3.04.060A and A1 of the District Code are repealed in their entirety and replaced with the following:

"A. Fees. New connections shall be subject to water connection fees/capacity charges based on the estimated reasonable cost of the district facilities required to provide the service. The fees shall consist of five component parts (i.e., capacity charge, installation fee, meter fee, account set-up fee and supplemental charge {if applicable}).

1. For municipal, industrial and irrigation services six inches or less in diameter that do not require a pressure regulator, backflow prevention device or other special facilities, standard schedules of fees are set forth in Appendix A to Chapter 3.04."

Section 4. Section 3.04.140.

Section 3.04.140 (B)(3) is hereby established to read as follows:

"The capacity charge for private fire service shall be 25% of the water capacity charge established by Appendix A to Chapter 3.04."

Section 5. Section 3.04.150.

Section 3.04.150 is repealed in its entirety.

Section 6. Appendix A to Chapter 3.04.

There is hereby established Appendix A to Chapter 3.04 as follows:

Appendix A to Chapter 3.04

Standard Schedule of Water Capacity and Connection Fees

The Water Capacity Charge will take effect 30 days after ordinance is passed. The future increases will take effect on July 1st the year 2001:

Standard Schedule of Capacity Charges are established as follows:

<u>METER SIZE</u>	<u>1997</u>	<u>2001</u>
UP TO 1 INCH	\$ 3,180.00	\$ 3,370.00

Capacity charge for meters larger than 1" shall be determined by dividing 30 gpm into the flow rate of the larger meter times the capacity charge of the 1" meter.

Standard Schedule of Installation Fees are established as follows:

<u>METER SIZE</u>	<u>INSTALLATION</u>	<u>METER FEE</u>	<u>ACCOUNT FEE</u>
1 INCH or less	\$ 760	\$ 170	\$10
1½ INCH	AT COST*	\$ 450	\$10
2 INCH	AT COST*	\$ 510	\$10
3 INCH AND LARGER	AT COST*	AT COST	\$10

*AT COST = TIME AND MATERIALS

The variable Connection Fees will take effect 30 days after ordinance is passed.

Section 7. CEQA Finding

The Board of Directors of the District finds that the adoption of this ordinance does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.) or its implementing Guidelines (14 California Code of Regulations Section 15000 et seq.) ("CEQA Guidelines"). The Board further finds that the adoption of this ordinance falls within the activities described in Section 15378(b)(3) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of this ordinance were a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the

environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance and the approval of the provisions contained herein may have a significant effect on the environment. The District General Manager is authorized to prepare, execute and file a notice of exemption pursuant to the above provisions.

Section 8. Repeal of Prior Ordinances and Resolutions

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

Section 9. Repeal Shall not Revive any Ordinances.

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

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

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

Section 11. Severance Clause.

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

Section 12. Effect of Headings in Ordinance.

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

Section 13. Effective Date.

This ordinance shall take effect and be in full force and effect thirty (30) days after its passage except that the fees, rates, and charges shall effect at the dates prescribed. Before the expiration of fifteen (15) days after passage it shall be posted in three (3) public places with the names of the members voting for and against the ordinance and

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

Introduced at a regular meeting of the Board of Directors held on May 21, 1997, and **PASSED AND ADOPTED** by the Board of Directors of the Nipomo Community Services District on the _____ day of _____ 1997, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

KATHLEEN FAIRBANKS
President of the Board
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

DONNA K. JOHNSON
Secretary to the Board

JON S. SEITZ
General Counsel

ORD\097-CAP.DOC

AGENDA ITEM

MAY 21 1997



TO: BOARD OF DIRECTORS

FROM: DOUG JONES

DATE: MAY 21, 1997

DISTRICT SERVICES AND FEES

At the Board meeting on May 7, 1997, your Honorable Board directed staff to review other agencies to determine their charges for development to connect to their water system, i.e. water connection fee, water capacity fees, developer fees. The attached sheet is information that staff has gathered. Each agency has developed its own fee structure to meet their needs and may not be directly comparable to the District fees or proposed fees. Some agencies include meter and other items that the District does not include in its fee schedule.

Also attached is the memo to the Board's Finance Committee which reviewed the capacity fees and the existing District water and sewer facilities capabilities for servicing the District.

Upon the Board's review of these items, an ordinance has been prepared for introduction which would establish the District's connection fees and the 1" capacity charge at \$3,180 and charges for larger meters.

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SURVEY OF CAPACITY CHARGES

TEMPLETON CSD	
5/8"	3642
3/4"	3667
1"	3717
2"	4042
3" OR LARGER	\$4042 PER UNIT
1 UNIT EQUALS 300 GALLONS PER DAY, ONE APARTMENT OR ONE HOUSE	

CAMBRIA CSD	
PER EQUIVALENT DWELLING UNIT	3255
ADDITIONAL FEES FOR RETROFIT AND ADMINISTRATIVE	

OCEANO CSD	
5/8"	675 + FRONT FOOTAGE
3/4"	950 + FRONT FOOTAGE
1"	1350 + FRONT FOOTAGE
1.5"	2700 + FRONT FOOTAGE
2"	5400 + FRONT FOOTAGE
3"	10800 + FRONT FOOTAGE
4"	18900 + FRONT FOOTAGE
6"	43200 + FRONT FOOTAGE

ARROYO GRANDE	
SINGLE FAMILY	1650
COMMERCIAL	
1"	1460
1.5"	2316
2"	2820
3"	4770
4"	NOT AVAILABLE
6"	NOT AVAILABLE
DOES NOT INCLUDE LOPEZ FEE OR FRONT FOOTAGE FEES	

GROVER BEACH	
SINGLE FAMILY	577
COMMERCIAL	
1"	1635
1.5"	2575
2"	4774
3"	8840
4"	14918
6"	NOT AVAILABLE
ADDITIONAL-FEE/UNIT OF SERVICE=\$2.21 UNIT OF SERVICE=AVERAGE DEMAND (GAL/DAY)	

SANTA MARIA	
3/4"	1070
1"	2414
1.5"	5940
2"	11891
3"	32148
4"	\$2.74/GPD*
5" OR LARGER	\$3.33/GPD*
*LARGE SIZE METER FEES TO BE BASED ON INDIVIDUAL PROJECTED WATER USE	

Each agency has developed its own policies and methodologies for developing its capacity fees or developer impact fees depending on the agency's existing facilities, contractual agreements and future needs.

MEMO TO FINANCE COMMITTEE

DATE: MAY ¹⁶~~23~~, 1997 MEETING 8:30 A.M. DISTRICT OFFICE
FROM: DOUG JONES

WATER REQUIREMENTS

TOWN DIVISION

Staff has reviewed the water production for the Town Division for calendar year 1996. The following information is presented:

AVERAGE ANNUAL DEMAND (1996)
528.1 MILLION GALLONS (MG) = 1005 GPM

AVERAGE SUMMER DEMAND (June, July Aug. 1996)
191.5 MG = 1446 GPM

Based on the District's Master Water Plan developed by Boyle Engineering the following maximum daily demands are calculated:

MAX. DAILY DEMAND 2 TIMES SUMMER DEMAND = 2,892 GPM = 4.2 MGD
PEAK HOURLY DEMAND 4 TIMES SUMMER DEMAND = 5,784 GPM = 8.4 MGD

The District has six (6) producing wells in the Town Division which were measured in March 1997 and are producing as follows:

District Well Production (5/97)

<u>WELL</u>	<u>GPM</u>
Eureka	900
Via Concha	690
Bevington	340
Omiya	125
Olympic	140
Church	150
	<u>2,345 gpm = 3.3 MGD equivalent to 3020 AFY (at 80% production)</u>

The following is the District analysis to meet the maximum daily demand in the summer.

The District presently has 2 million gallons of storage, of which about 1.1 million gallons is available to meet daily demand because the standpipe storage, once it drops to approx. 20 feet, water pressure in the higher elevation area (Summit Station) becomes limited. The following is the well production and storage to meet the District's maximum daily demand.

Maximum well production	= 3.3 MG
Available storage	= <u>1.1 MG</u>
Total Available	4.4 MG
Max. Daily Demand	<u>4.2 (Summer of 1996)</u>
Excess available or (Shortage)	0.2 MGD

Projecting the water demand for the summer of 1997, with over 100 new services added, the District may be reaching or exceeding its maximum daily demand.

FUTURE SUPPLY

The Boyle Water and Sewer Master Plan estimates, based on the County Land Use Element, that the future number of units within the District would be approx. 4100 residential units and 300 commercial units for a total of approx. 4400 units.

Based on water use of 0.6 acre foot per unit the District needed would be about 2640 AFY to provide water to these units. The District's present pumping capacity, assuming 80% production in which 20% would be down time, can presently produce over 3000 AFY. Therefore, the existing District production is adequate to meet the future consumption of the District. The District shortfall is in meeting the maximum daily and peak hourly demands. These demands can be met by additional production wells and/or storage. The Boyle Report recommends adding additional production facilities, transmission facilities and storage to meet the existing and future needs of the District. Presently, the District has a design underway for a second crossing of Nipomo Creek to bolster its distribution system from the east side to the west side. The 1998 budget will include the acquisition engineering and construction of a new production well.

FUNDING OF IMPROVEMENTS

Water Capacity Fees have been collected by the District as new development comes into the District. Prior to the early 90's, these capacity fees were used to supplement the monthly user charges, along with paying for capital improvements, i.e. Hetrick water storage facility. Since 1993, water capacity fees in the Town Division have been kept in a separate account. As of 3/31/97 these fees total \$522,900. Future capital water improvements will be expended from this account. Presently, the District is under design for a second crossing in Nipomo Creek. Estimated construction cost for this project is \$160,000. Construction of new well would cost approx. \$350,000. The Town Division water capacity fee account with these two projects will almost be depleted.

Future near term facilities that are needed for the District is an additional one million gallon storage tank at the twin tank site and a distribution line from that site to Thompson Ave. It is estimated that these improvements would cost \$1.2 million. Since there are not sufficient funds in the water capacity fee account, borrowing would have to be commenced to install these improvements and such costs would have to be paid back to the appropriate lender. The funds to pay back this loan would primarily come from the water capacity fees and/or with the approval of the Board, the monthly water user charges. It is proposed that the water capacity fees be adjusted so that the loan paid back through future connections and not from the monthly water user charge. It is previously proposed that the capacity fee of \$3,180 for setting of a meter of 1 inch or smaller. The water capacity fee is determined by dividing 30 gpm into the flow rate of meters that are larger than 1 inch times the capacity fee of the one inch meter. Larger meters would be charged their appropriate capacity fee for the demand on the system.

It is recommended that capacity charges can be calculated on meter sizes of 2 inches or larger based on the meter capacity to determine the appropriate fee. Larger meters may have different flow characteristics depending on the meter style, i.e. 4" compound 500 gpm vs. 4" turbine 1000 gpm.

The District should proceed with a new production facility and adjusting its water capacity fees to establish a funding mechanism to support future needs. Without proceeding with improvements and the funding mechanism for such improvements, the District may not have sufficient capacity to serve already approved developments.

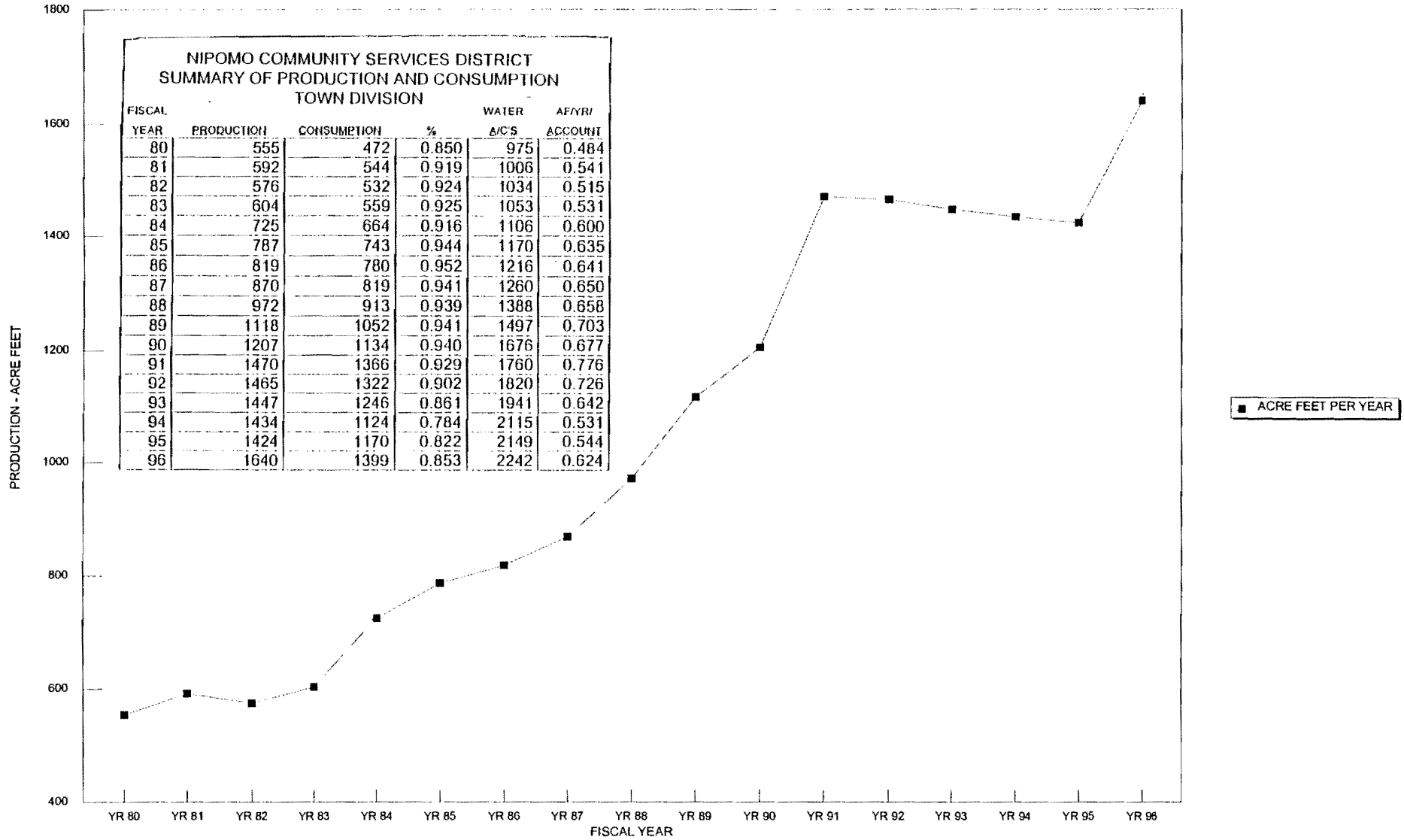
WASTEWATER CAPACITY

The District is in the final stages of acquiring the State Revolving Fund Loan for the expansion of the Town Division wastewater treatment facility. The existing treatment facility was designed for 0.36 MGD. It is presently running above that amount. Garing, Taylor and Assoc. along with Kennedy/Jenks Engineering have analyzed the existing plant with respect to future design and has determined that the existing capability of the plant would be closer to 0.4 MGD. Based on this engineering analysis, we are reaching the capacity of the plant, but we are still meeting the discharge requirements of the Regional Quality Control Board. Staff is presently completing the application requirements for the State loan for their approval. It is anticipated that this approval will be received in the near future so that funding and expansion of the plant can proceed.

Attached are graphs showing the District water production and wastewater treatment flows.

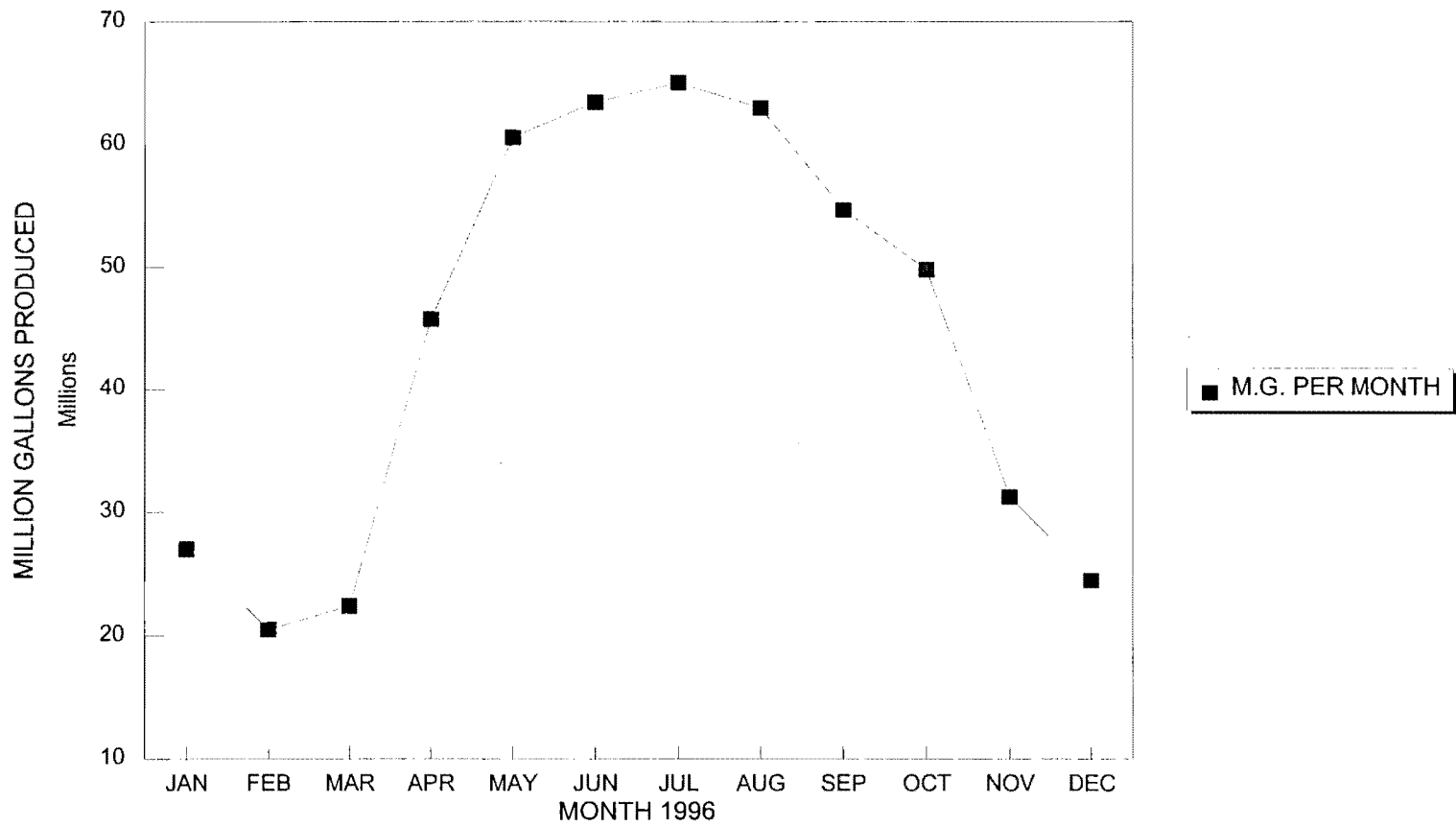
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NIPOMO COMMUNITY SERVICES DISTRICT
TOWN DIVISION-WATER PRODUCTION

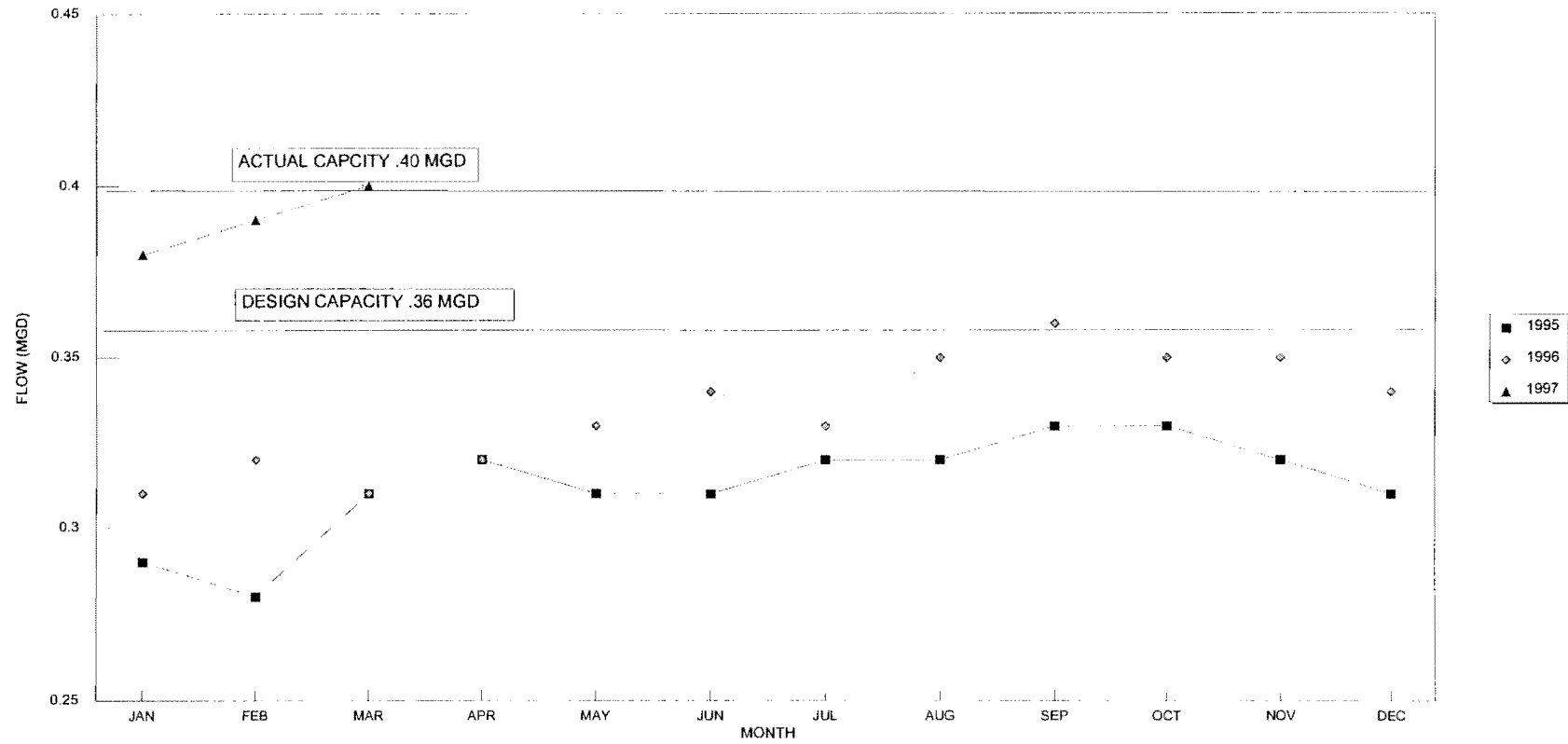


NIPOMO COMMUNITY SERVICES DISTRICT

TOWN DIVISION-MONTHLY PRODUCTION (MILLION GALLONS)



NIPOMO COMMUNITY SERVICES DISTRICT
TOWN DIVISION-SEWER TREATMENT PLANT FLOW (MGD)



TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 21, 1997

LAFCO

The District received a copy of a letter to Roger Brett of California Cities Water Company from Byron Bradley , the Chairman of the Local Agency Formation Commission. This letter requests that the District and Cal Cities work together to solve service area within the Sphere of Influence and the Urban Service Area of the District. Staff met once with the Cal Cities representatives and would like direction from your Honorable Board how you wish to proceed in this matter.

LAFCO met on May 15, 1997 and reviewed the inventory of services outside the District prior to the Gotch Bill being implemented. Three separate subdivisions, known as the Moore property, located at the intersection of Willow Rd. and Highway 1 were disputed by representatives from the Laguna Negra Mutual Water Co. After substantial debate, LAFCO reaffirmed the inventory of services outside the District boundary.

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LAFCO • Local Agency Formation Commission
Serving the Area of San Luis Obispo County

COMMISSIONERS

BYRON BRILEY, Chair
Special District Member

GENE GATES, Vice-Chair
City Member

RUTH BRACKETT
County Member

WILLIAM ENGELS
Special District Member

DUANE PICANCO
City Member

CRAIG PRITCHARD
Public Member

MICHAEL P. RYAN
County Member

ALTERNATES

ETE DOUGALL
City Member

CAROLYN MOFFATT
Special District Member

LAURENCE LAURENT
County Member

RICHARD ROBERTS
Public Member

STAFF

PAUL L. HOOD
Executive Officer

KATHY BOUCHARD
Legal Counsel

NIKKI J. SCHMIDT
Clerk to the Commission

May 5, 1997

Mr. Doug Jones, General Manager
Nipomo Community Services District
261 West Dana Street
Nipomo, CA 93444

Re: Water Service Area

Dear Mr. Jones:

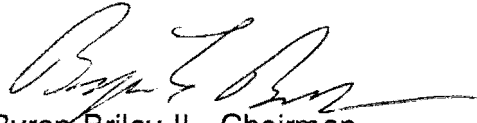
On a number of occasions during the past several years, the Local Agency Formation Commission (LAFCO) has expressed concern regarding the overlap of the water service area of the Nipomo Community Services District (NCSD) and the California Cities Water Company (Cal Cities). In certain areas within the sphere of influence of the NCSD, Cal Cities also offers water service. Late last year, the Commission reviewed the issue at an agendaized public meeting and directed staff to develop a letter for the Chairman's signature encouraging the two agencies to resolve the issue by binding arbitration. Further, if one of the parties is not amenable to this approach, then non-binding arbitration should be used. The results of the arbitration would be returned to LAFCO and used as a basis for future annexations in the disputed area.

I hereby request that the Nipomo Community Services District and the California Cities Water Company enter into a process of binding arbitration to resolve the issue of which agency should provide water service within the sphere of influence of the Nipomo Community Services District. If binding arbitration is not amenable to either party, then non-binding arbitration is recommended.

Doug Jones
May 5, 1997
Page Two

Please let me know if you have any questions or if LAFCO staff or Commissions can assist in this process.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron Briley II". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Byron Briley II, Chairman
Local Agency Formation Commission

c - Roger Brett, General Manager, California Cities Water Company
Members, Formation Commission

MAY 21 1997

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 21, 1997

ACCEPTING WATER IMPROVEMENTS FOR TRACT 1813 (SKYLARK PARK)

Upon completion of a developer's project, the District accepts improvements of the project when all requirements are met. The developer for Tract 1813, a twenty-six (26) lot development on S. Frontage Road, has installed water and sewer improvements and has met the District's conditions of installing the improvements, paid associated fees and providing the necessary paperwork, including the Offer of Dedication and the Engineer's Certification. Attached is a resolution accepting the water and sewer improvements for Tract 1813.

It is staff's recommendation that your Honorable Board approve Resolution 97-Tract 1813

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RESOLUTION NO. 97- TRACT 1813

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING THE WATER AND SEWER IMPROVEMENTS FOR TRACT 1813

WHEREAS, on January 24, 1990 the District Board of Directors did conditionally approve water and sewer improvements for twenty six (26) lots created by Tract 1813, and

WHEREAS, the District approved and signed the construction plans on March 14, 1995 for the water and sewer improvements to be constructed, and

WHEREAS, the water and sewer improvements have been constructed and said improvements are complete and certified by their engineer, and

WHEREAS, on February 2, 1997 the Owner offered the water improvements to the Nipomo Community Services District, and

WHEREAS, this District has accepted such offer without obligation except as required by law, and

WHEREAS, all water fees for service, required in conformance with District Ordinances, have been paid in full for twenty-six (26) lots created by Tract 1813, and

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

That the water and sewer improvements constructed to serve the lots created by Tract 1813 are accepted by this District.

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

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

the foregoing resolution is hereby adopted this 21st day of May 1997.

Kathleen Fairbanks, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
General Counsel

AGENDA ITEM

7

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 21, 1997

MINUTES FROM SAFETY MEETING

The Minutes from the Safety Meeting of May 8, 1997 are presented to the Board of Directors for your review. After review and comments, the Board of Directors may make a motion to accept and file the Safety Minutes.

This is a procedural item so that the District may receive credit on its insurance premium.

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NIPOMO COMMUNITY SERVICES DISTRICT
261 WEST DANA, SUITE 101
P.O. BOX 326
NIPOMO, CA 93444-0326
(805) 929-1133 FAX (805) 929-1932

NIPOMO CSD SAFETY MINUTES

Date: May 8, 1997

Present: Kathy Beltran, Butch Simmons, Rick Motley and Ernest Thompson

Roger C. Hamm, of AT&T National Damage Prevention, presented a video and flip chart program. The video and presentation included the Underground Service Alert laws-Call Before You Dig Program. Mr. Hamm reviewed safety issues when working in trenches containing fiberoptic cables. He stated that looking at the exposed ends of fiberoptic cables can be dangerous to the eyes, especially if the person is wearing glasses. Mr. Hamm also gave out an emergency 800 number for AT & T.

Adjournment.

MAY 21 1997

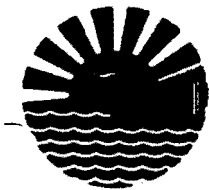


TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 21, 1997

MANAGER'S REPORT

1. Pismo Beach letter on District Coastal Valve
Enclosed is a letter from the Mayor of Pismo Beach concerning the District's valve in the Coastal Aqueduct.
2. SLO CSDA meeting May 22, SLO Library
This is a reminder that the San Luis Obispo Chapter of California Special District's Association have a meeting on May 22 in the SLO Library at 7:00 p.m. Mr. Bob Blair has indicated that he would be attending the meeting and representing the District.
3. Budget study session

Now is the time for all good men and women to meet to review the proposed budget for 1997/98 period. I is recommended that the full Board have a Study Session on the proposed budget on a convenient date for the Board members.



City of Pismo Beach

760 Mattie Road - Post Office Box 3
Pismo Beach, California 93448
(805) 773-4657 • Fax (805) 773-7006

May 7, 1997

Board of Supervisors
County Government Center
Room 370
San Luis Obispo, CA 93408

Dear Chairperson Brackett and Boardmembers:

At our regular meeting on May 6, 1997, the Pismo Beach City Council considered recent news accounts of discussions by the Nipomo Community Services District Board regarding possible construction of a turnout in the state water pipeline to allow the CSD to obtain state water in the event of emergencies such as well contamination or severe drought.

As you are well aware, the City of Pismo Beach and a number of other agencies made the difficult decision, some years ago, to provide for their long term water needs by entering into contracts for state water and committing the funds necessary to pay their share of the cost of construction of the pipeline and related facilities and of basic ongoing maintenance of the state water delivery system. Virtually every contracting agency is faced with a substantial financial burden, far into the future, to meet its contractual obligation. For example, in Pismo Beach either a special tax measure or a substantial increase in user rates are confronting our residents within the coming month (to provide a secure source of income to pay the City's state water obligations in the aftermath of the adoption of Proposition 218). Our Finance Director recently reported that from 1992-93 through June 30, 1997, Pismo Beach will have made almost \$2,460,000 in State water payments.

If County Flood Control District, CCWA or other body, considers a request from the Nipomo CSD or from any other agency seeking access to state water, the concerns of all contracting agencies must be obtained and resolved prior to any commitment being made. While not exhaustive, the following are some initial observations on behalf of the City of Pismo Beach.

1. It is a matter of very serious concern to the City of Pismo Beach that agencies which chose not to buy into the state water system, leaving to the participating agencies the responsibility for capital and other fixed costs of bringing the pipeline through San Luis Obispo County, may, without compensating the participating agencies, gain the advantage of the availability of this water.
2. If any such access to state water is being contemplated, there must be a full reimbursement to the participating agencies for the appropriate share of the costs they have borne, including cash flow interest costs.
3. Since "emergency" access presumes needs which could arise 24 hours per day, 365 days per year, allocation of costs related to such access must be based almost entirely on the benefits of state water being available, rather than primarily on the amount of water which may be used.

MEMO TO: San Luis Obispo Board of Supervisors
May 7, 1997 - Page 2 of 2

4. If access is being obtained only for "emergency" purposes, there must be a very clear definition of what constitutes an emergency, so that this source does not support any level of additional development.
5. It appears, on the basis of very preliminary review, that environmental impacts of such access must be completed before a project is approved.

As noted, these observations are not intended to be a comprehensive analysis of this matter. They are offered for your consideration in the event that a project request is submitted by the Nipomo CSD or by any other party.

In addition to your consideration of these items, the City of Pismo Beach hereby requests official and timely notification in the event that your Board receives or otherwise becomes aware of any proposal for access to state water by any agency not currently contracting for state water.

Please be advised that this matter is of very serious concern to the City of Pismo Beach and that the City Council is prepared to take whatever actions are necessary to assure fair and equitable treatment of Pismo Beach residents and property owners. Your prompt response to the issues and concerns set forth herein will be appreciated.

Very truly yours,


John C. Brown
Mayor

JCB:jy

cc: Chair and Board, Nipomo Community Services District
Central Coast Water Authority
File

RECEIVED

MAY 12 1997

COMMUNITY
DISTRICT