

NIPOMO COMMUNITY SERVICES DISTRICT

AGENDA

John Snyder
\$11,500
5520

OCTOBER 6, 1999 7:00 P.M.
BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

ROBERT BLAIR, PRESIDENT
GENE KAYE, VICE PRESIDENT
AL SIMON, DIRECTOR
RICHARD MOBRAATEN, DIRECTOR
ALEX MENDOZA, DIRECTOR

STAFF

DOUGLAS JONES, GENERAL MANAGER
DONNA JOHNSON, SECRETARY TO THE BOARD
JON SEITZ, GENERAL COUNSEL

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson.

CALL TO ORDER AND FLAG SALUTE

1. ROLL CALL

PUBLIC COMMENTS PERIOD

2. PUBLIC COMMENTS

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board. Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.

BOARD ADMINISTRATION (The following may be discussed and action may be taken by the Board.)

3. SAN LUIS BAY APARTMENTS - INTENT-TO-SERVE (APN 092-130-046)
Request for service for a 120 unit apartment complex at Blume & Grande Ave.
4. CALIMEX PLACE - INTENT-TO-SERVE (CO 94-131) MARQUEZ
Request for water service for a two way lot split on Calimex Place
5. PROTEST OF DISTRICT PRIVATE FIRE FEES
Developers of La Placita Plaza protests the basis of establishing private fire service fees
6. ENGINEERING SERVICES
Review engineering services to evaluate Summit Station water system
7. **CONSENT AGENDA** *The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the consent agenda and will be considered separately. Questions or clarification may be made by the Board members without removal from the Consent Agenda. The recommendations for each item are noted in parenthesis.*
 - a) BOARD MEETING MINUTES (APPROVE)
Approval of minutes of the September 15, 1999 Regular Board meeting.
 - b) WARRANTS (APPROVE)
 - c) BOARD OF DIRECTORS BY-LAWS (APPROVE)
Review and adopt amendments to Sections 3.3 and 8 of the By-Laws, Res. No. 99-710

OTHER BUSINESS

8. MANAGER'S REPORT
 1. CSDA Conference
 2. CORRESPONDENCE ON DANA ADOBE PLANNING MEETING
 3. NIPOMO GROUNDWATER LITIGATION INFORMATION

9. DIRECTORS COMMENTS

CLOSED SESSION

- CONFERENCE WITH LEGAL COUNSEL GC54956.9 (a) & (b)
- a. SMVWCD vs NCSD Case No. CV 770214 and related cases
Case Nos. CV 990556, CV 990391, CV 990392, CV 990558, CV 990266, CV 770214,
SM 113422, SM 112867, SM 113425, SM 113421
 - b. NCSD vs. State Dept Of Health Services CV 990706
 - c. NCSD vs. Shell Oil, et. al. Case No. CV 077387

ADJOURN

OCT 6 1999

TO: BOARD OF DIRECTORS
FROM: DOUG JONES *D*
DATE: OCTOBER 6, 1999

SAN LUIS BAY APARTMENT (D99-005D)
APN 092-130-046
REQUEST FOR SERVICE

ITEM

A request for an Intent-to-Serve letter from Leon Mills of Knopff-Sharp Assoc. for a 120 unit apartment complex called San Luis Bay Apartments located at Blume and Grande Ave.

BACKGROUND

On September 15, 1999, the Board reviewed an Intent-to-Serve letter for the San Luis Bay Apartments, 120 unit apartment complex, located at Grande Ave. and Blume Street. (See the attached Board letter dated Sept. 15, 1999.) Since this project is being developed on a tax credit program, the District will not receive any property taxes from this development. The Board was interested in the potential District property taxes generated from this project. It is estimated that the value of this project is approx. \$7.8 million. The District tax increment based on Annex. No. 17 is 4.18%. The approximate tax revenue, based on a 1% assessed value, would be about \$3200/yr.

RECOMMENDATIONS

Presently District does not have any restrictions of providing services, therefore, it is recommended that the Intent-to-Serve as outlined on the Sept. 15, 1999 Board letter be approved with the conditions stated.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: SEPTEMBER 15, 1999

SAN LUIS BAY APARTMENTS (APN 092-130-048⁶)
REQUEST FOR INTENT-TO-SERVE

The District has received a letter from Leon Mills, Regional Manager of Knopf Sharp & Associates, representing the San Luis Bay Apartments. The proposed development is a 120 unit apartment complex with a separate recreational building to be constructed at the intersection of Grande and Blume Avenues. The applicant is requesting water and sewer service for this development. It is recommended that an Intent-to-Serve be issued to the develop with the following conditions before the Will-Serve letter is issued by the District.

1. Enter into a Plan Check and Inspection Agreement and pay the appropriate fees.
2. Submit improvement plans to the District for approval showing appropriate looping and be prepared in accordance with the District Standards and Specifications.
- 3.. Pay all appropriate District water, sewer and other fees associated with this development.
4. Submit the following:
 - a. Reproducible As-Builts
 - b. Offer of Dedication
 - c. Engineer's Certification
 - d. A summary of all water and sewer improvement costs
5. This Intent-to-Serve Letter will expire two years from date of issuance.
6. Street lighting will be provided for this development through the County Administered Nipomo Lighting District.
7. All landscaping will be designed for drought tolerance and minimum irrigation.

Upon review of the above items, the Board may approve the conditional Intent-to-Serve letter from San Luis Bay Apartments with the above conditions.

Board/San Luis Bay



Knopf Sharp
& ASSOCIATES

A Division of Quad Knopf, LLC

September 9, 1999

Mr. Doug Jones, General Manager
Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444-1932

Subject: San Luis Bay Apartment,
APN 092-130-048

Dear Mr. Jones,

Per our telephone conversation this morning, I am sending this letter to request an Intent-to-serve letter for the above referenced project. We have submitted to the County of San Luis Obispo for our site plan review as of August 17, 1999.

I also understand from your letter to us dated June 15, 1999, that we will have to provide plans, and demand criteria for the District to provide a Will-serve letter.

Time is of the essence for the issuance of the Intent-to-serve letter, so your help is appreciated. Should you have any questions, please do not hesitate to call our office.

Sincerely,
Knopf Sharp and Associates

Leon Mills
Regional Manager

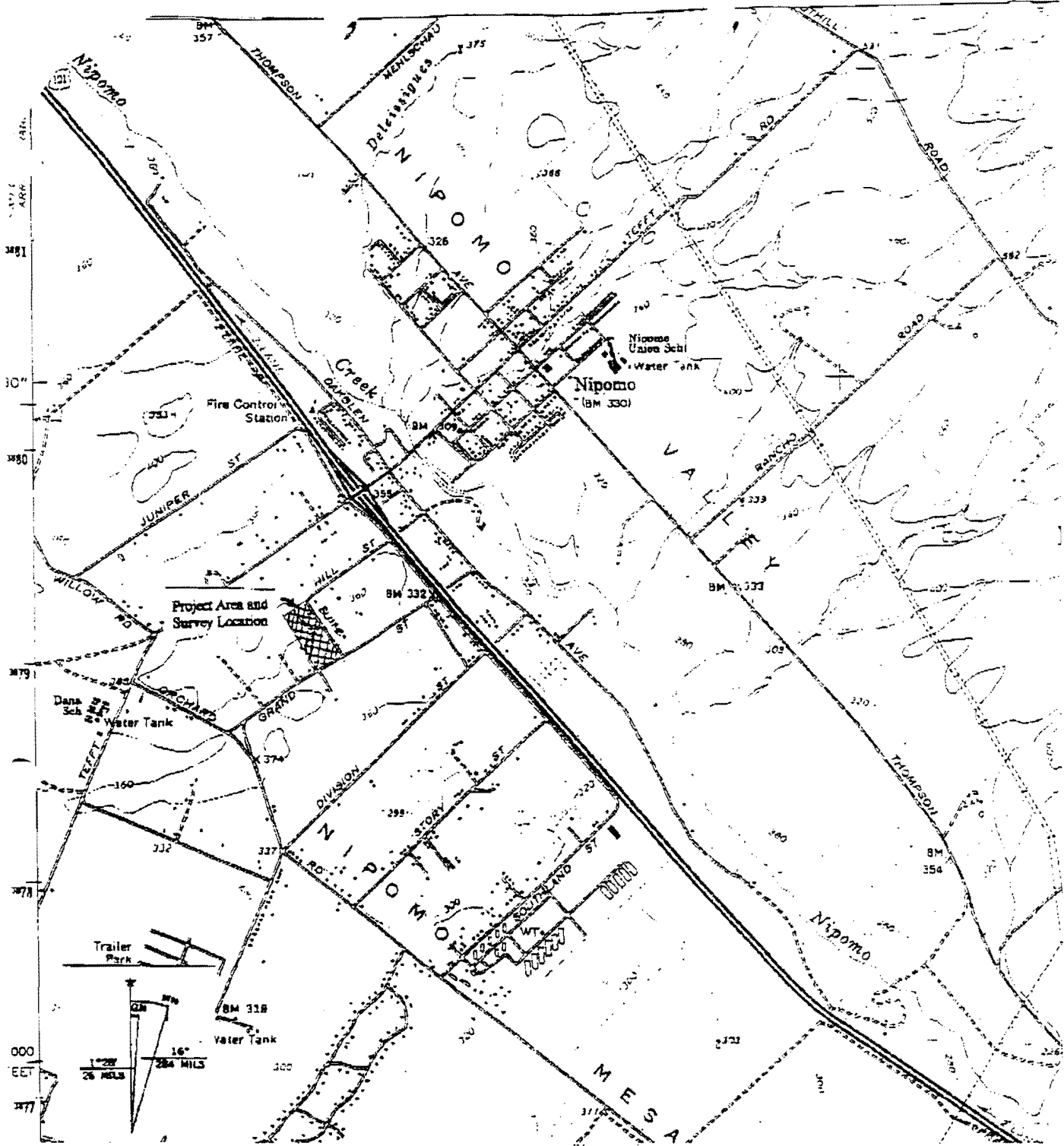


FIGURE 3: PHASE 1 SURVEY, PROJECT AREA, Blume St. and Grande Ave., Nipomo
 Source: USGS 7.5' Quadrangle, Nipomo, California. Scale: 1:24,000, Contour Interval 40 ft.

OCT 6 1999

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 6, 1999

CALIMEX PLACE (CO 94-131)
MARQUEZ
LOT SPLIT

ITEM

Water service request for a lot split on Calimex Place-2 lots

BACKGROUND

The District has received a request from Joe Marquez for service for a lot split on Calimex Place. The lot presently has one service. A second service is required. CDF is requiring an installation of a fire hydrant.

RECOMMENDATIONS

It is recommended that an Intent-to-Serve be issued with following conditions to be met before a final Will-Serve letter is to be issued for the lot split named CO 94-131.

1. Enter into a Plan Check and Inspection Agreement and pay the appropriate fees.
2. Submit improvement plans to the District showing the appropriate water service and proposed fire hydrant installation and be in accordance with the District Standards and Specifications.
3. Pay all appropriate District water, and other fees associated with this development.
4. Submit the following:
 - a. Reproducible As-Builts
 - b. Offer of Dedication
 - c. Engineer's Certification
 - d. A summary of all water improvements
5. This Intent-to-Serve Letter will expire two years from date of issuance.

ATTN: DOUG JONES,

JOE MARQUEZ
611 DIVISION ST. DATE
MPOMO CA 93944

THIS LETTER IS WRITTEN
AS A REQUEST FOR SERVICE FOR A PROPERTY
SPOT AT 832 CALIMEX. CONTROL # CO 94-131.
I MET WITH CLINT BULLARD OF THE C.D.F.
ON SEPTEMBER 27TH AND HE DETERMINED
A LOCATION FOR THE HYDRANT. THIS WOULD
BE ANYWHERE ALONG THE FRONTAGE
OF THE PROPERTY PREFERABLY SOUTH OF
THE ENTRANCE GATE, LESS THAN THREE
FEET FROM THE CURB (SEE ATTACHED MAP).
I WOULD LIKE TO INSTALL A WARE SINGLE
2" OUTLET HYDRANT. CAN OR WRITE

RECEIVED

SEP 28 1999

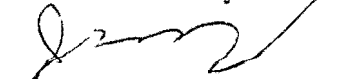
NIPOMO COMMUNITY
SER. SES DISTRICT

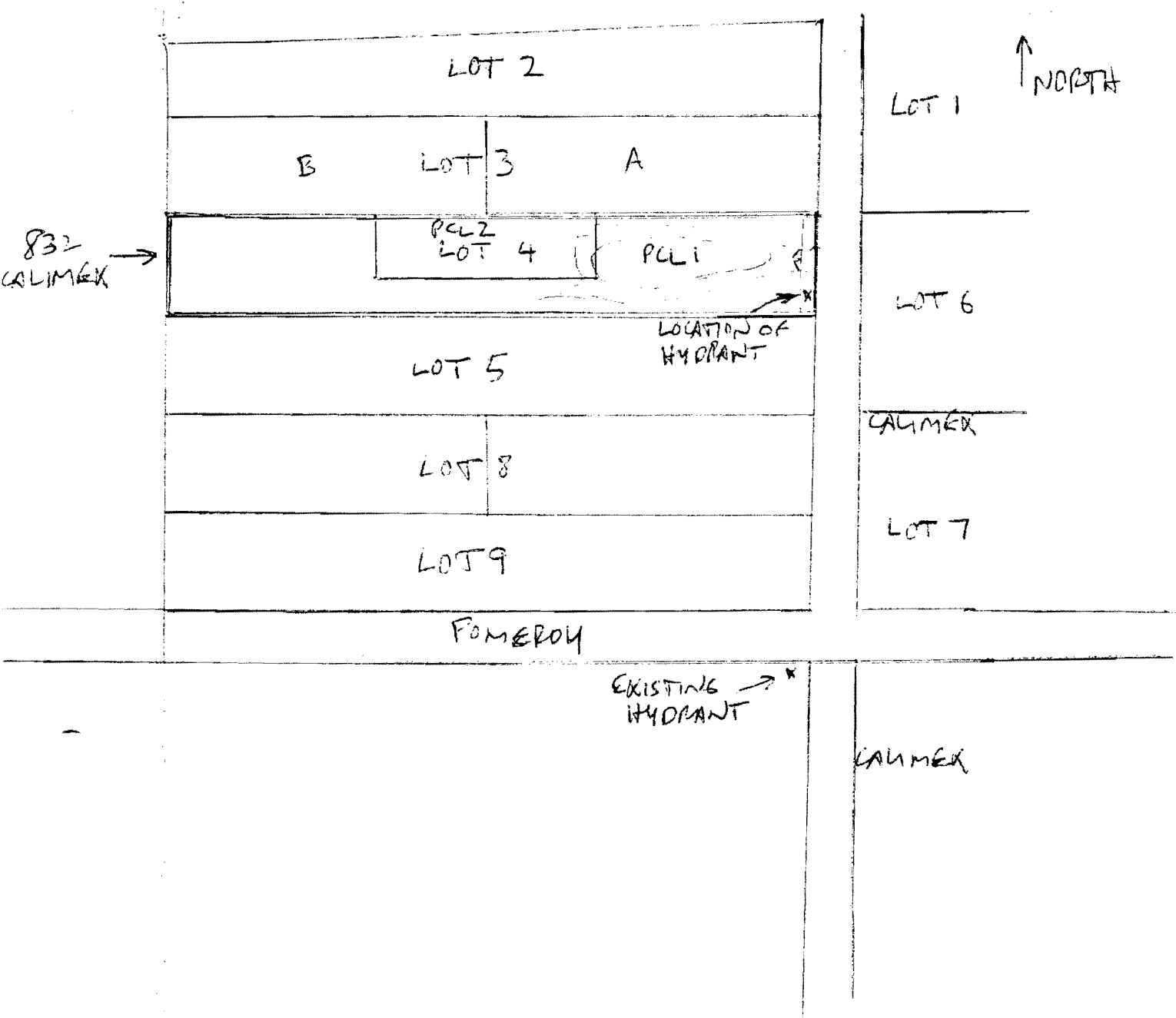
YOUR RESPONSE

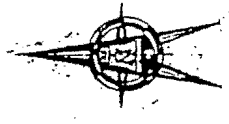
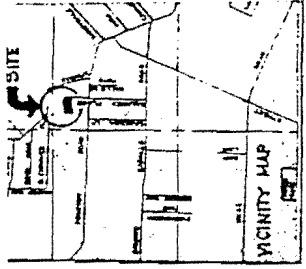
THANK YOU

SINCERELY

JOE MARQUEZ


805 929-3910



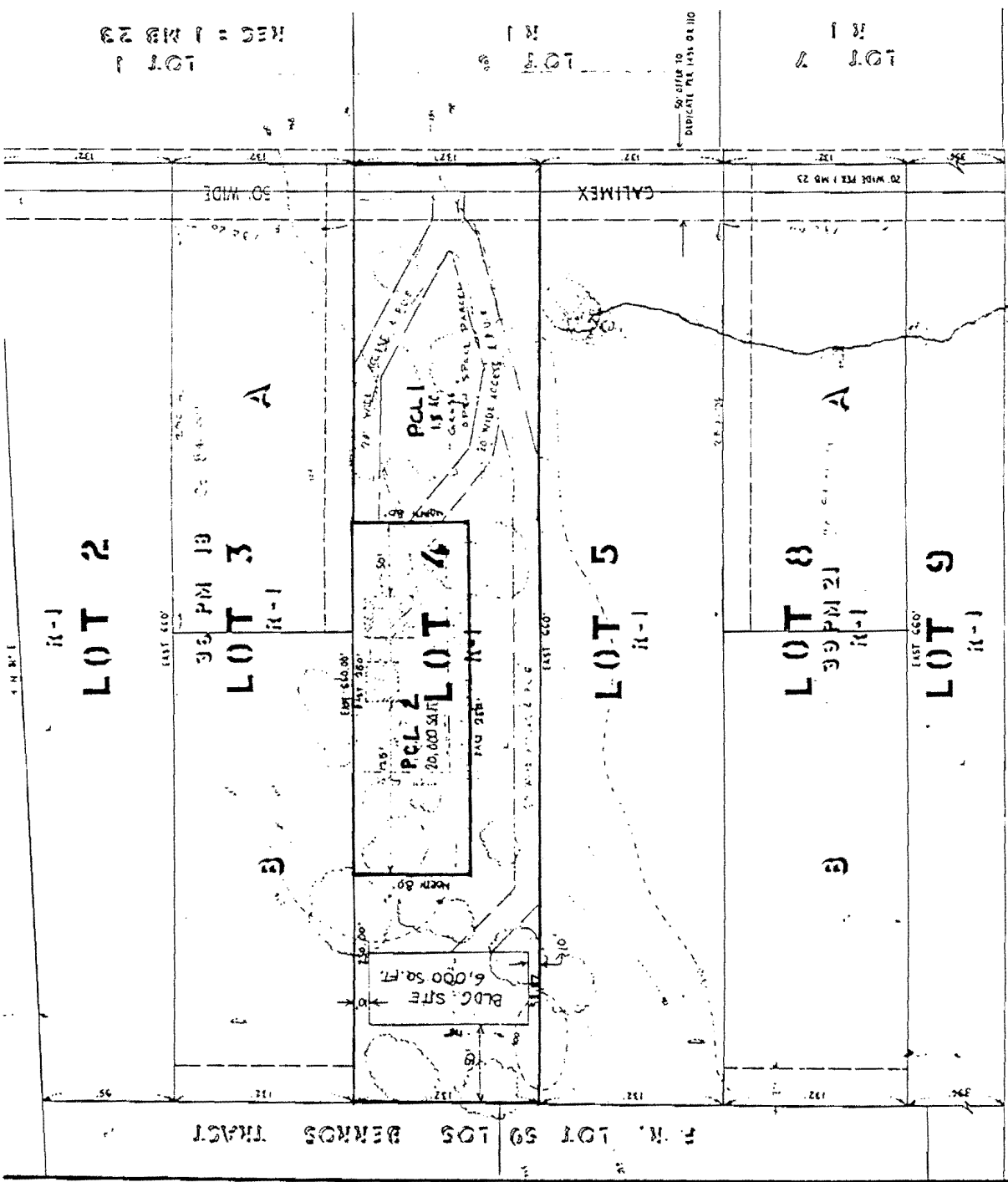


SCALE 1" = 50'

P.L. 11-1-11

108 - 94-490	SAN L	YES
	ENGINE	
A PROPOSED DEVELOPMENT		YES
DIVISION "C" REVIEW		
THE OFFICE OF		
		DEVELOPER

B-2-11



PROJECT

CO 94-131 NIX



EXHIBIT

TENTATIVE PARCEL MAP

B-2-10

CO 89-369

B' OF RR

RESIDENTIAL RUF

POMEROY'S
IVE OAK RIDGE ROAD

N I P O M O

T R A C T S

RESUB

RS

RS SITE

RR 23

URL

N I P O M O

POMEROY TRACT

18 TRACT 15

975

19 20 21 22

TR 965

26 25 24 23

TR 1458

27 28 29 30

TR 965-2

34 33 32 31

POMEROY

38 37

CAMINO CABALLO

RS SUB

TR 1305

RS

TR 1475

35

PROJECT

CO 94-131 NIX



EXHIBIT

LAND USE CATEGORY Map

OCT 6 1999

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 6, 1999

PROTEST OF DISTRICT PRIVATE FIRE SERVICE FEES
LA PLACITA PLAZA

ITEM

The District has received a protest with respect to capacity fees for private fire service, from Andy Castellanos and Rudy Stowell, the developers of La Placita Plaza project located at the intersection of Orchard Road and Division Street. They do not believe there is a relation between the fee that is charged and the service provided.

BACKGROUND

The District, in 1994, acquired the service of a consultant to review the District's water and sewer capacity fees and service fees that would be required to maintain the District water and sewer systems. The consultant reviewed the operation and maintenance of the District, reviewed the District's financial statements and budget, and based on this data developed the appropriate fee structures to maintain the economic and financial capabilities of the District. Based on the consultant's study and recommendations, your Honorable Board introduced Ordinance 95-79 at the April 5, 1995 Regular meeting and held a public hearing at a following meeting. The ordinance establishing the fees was adopted May 3, 1995. [See attached Code Sec. 3.04.140(b)(3)]

Water distribution systems are primarily designed for fire flow and peak demand on the system. Fire flow has the greatest demand on the system, therefore, the pipeline sizes, storage facilities, and production are all based on this demand. Because of the increased cost to an agency to provide this service for its commercial development and residential customers, those who receive a private benefit should pay their appropriate share of the system. A private fire service, a building sprinkler system or on-site, fire hydrant unlike a regular ongoing water service, is more of a standby benefit to the property, therefore, the associated fee is reduced to 25% of the water capacity fee that is needed for a facility that is providing its own private fire protection. Property owners who provide private fire protection normally receive a credit on their annual fire insurance premium.

Since the fees were adopted in 1995, no major projects have come forth or were assessed a private fire service. Presently, all developments, that have a private fire service, are charged the monthly service charge based on the size of their service.

OCT 6 1999

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 6, 1999

PROTEST OF DISTRICT PRIVATE FIRE SERVICE FEES
PAGE TWO

CONCLUSIONS

Based on the applicant's protest:

1. The consultant in his study with respect to District water system justifies the relationship of the fee charged and the service provided.
2. All services on private property, sprinkler systems, private fire systems, hydrants as stated in Section 3.04.14(b)(1) are private services and should pay the appropriate fees.
3. The appropriate fees are based on the size of service, which is related to the meter size. Most private fire services do not actually have a meter but have a detector check assembly with a side meter to register any water taken from the fire service.
4. The District is not alone in providing private fire service fees and the Board has been progressive in this matter where those people that are providing the service pay their fair share of the service provided.
5. Since the ordinance was adopted, no major commercial projects have been constructed. The District presently is experiencing an expansion of the commercial area by having the Von's development, drug stores, high density apartments, etc. therefore, private fire service may be required these projects.

RECOMMENDATIONS

Take testimony from the developer and public. Depending on testimony and information presented, staff may recommend that this item be continued so legal counsel can review/analyze the District legal position for the Board's review at a later meeting.

Board99/La placita plaza.doc

La Placita Plaza Project D96-00530

RECEIVED

SEP 15 1999

NIPOMC COMMUNITY
SERVICES DISTRICT

From: Andy Castellanos & Rudy Stowell

To: NCSD

To All Concerned:

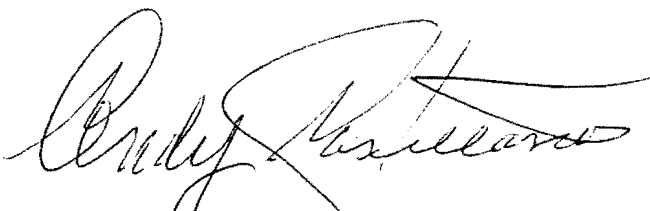
On 06/17/99 we tendered the amount of \$26,489.40, which you have designated as the capacity fee for "6" Fire Service ". We are protesting this fee as prescribed by California Government Code Section 66020. In compliance with Code 66020(B) the factual elements and legal theory forming the basis of the protest are as follows:

1. California Code Section 66001(4)(b) is submitted. We feel that NCSD can not show a reasonable relationship between the amount of the fee and the affect on the public facility impacted.
2. NCSD Section 3.04.140(B)(3) is the basis for your fee. This Section clearly states that the charge is for a "private fire service". It is our assertion that the hydrant which CDF requested be placed on the property should fall under the same definition as hydrants placed in the public right-of-way as it will serve exactly the same purpose and is merely a semantics issue. The only portion of the fire service which could possibly be considered as "private" is the 4" fire sprinkler line servicing the building.
3. NCSD Section 3.04.140(B)(3) states that private fire services shall be charged at 25% of the rates "established by Appendix A to Chapter 3.04". This Appendix establishes fees based on Meter Size. There are no meters on the fire system and the Section makes no provisions for charging by Pipe Size. One can not infer Meter Sizing as an equal to Pipe Sizing as it is common practice to size meters smaller than the supply line they serve.

4. This fee seems to have no precedent within the Services Industry. Phone calls to eight different Districts found only one District (Camrosa) which charged any facility fee at all for Fire Service and their fee was a flat \$1,000.

5. This fee seems to be enforced randomly if at all. Although it was adopted a full two years ago and several commercial establishments have been permitted in that time, your own records show that you have never collected any money at all under this Ordinance.

We have no problem with paying our fair share when we impact the community, but we feel this fee is clearly usury and illegal based on California law. The NCSD Ordinance it is based upon is poorly written at best at leaves far too much room for interpretation and abuse. We respectfully request that our fee be returned immediately based on this overwhelming evidence.



Andy Castellanos-Owner



Rudy B. Stowell-Contractor

PROTESTS, LEGAL ACTIONS, AND AUDITS

Section

66020. Development projects; exactions; protest procedures; refunds.
 66021. Developments and development projects; protest procedures.
 66022. Judicial actions to challenge fees and charges.
 66023. Requests for audits of local agency fees or charges; independent auditors; costs; local laws superseded.
 66024. Development fees as special taxes; judicial actions.
 66025. Local agency defined.

Chapter 9 was added by Stats.1990, c. 1572 (A.B.3228), § 22.

Cross References

Mitigation Fee Act, citation including this chapter, see Government Code § 66000.5.

§ 66020. Development projects; exactions; protest procedures; refunds

(a) Any party may protest the imposition of any fees, dedications, reservations, or other exactions imposed on a development project, as defined in Section 66000, by a local agency by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity, which notice shall contain all of the following information:

(A) A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.

(b) Compliance by any party with subdivision (a) shall not be the basis for a local agency to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development project. This section does not limit the ability of a local agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.

(c) Where a reviewing local agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed development, is required for reasons related to the public health, safety, and welfare, and elects to impose a requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, that approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, dedications, reservations, or other exactions not presently governed by other law.

(d)(1) A protest filed pursuant to subdivision (a) shall be filed at approval or conditional approval of the development or within 90 days of the date of the imposition of the fees, dedications, reservations, or other exactions to be imposed on a development project. Each local agency shall provide the project applicant a notice in writing at the time of the approval of the project or at the time of the imposition of the fees, dedications, reservations, or other exactions, a statement of the amount of the fees or a description of the dedications, reservations, or other exactions, and notification that the 90-day approval period in which the applicant may protest has begun.

(2) Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set aside, void, or annul the imposition of the fees, dedications, reservations, or other exactions imposed on a development project by a local agency within 180 days after the delivery of the notice. Thereafter, notwithstanding any other law to the contrary, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the imposition. Any proceeding brought pursuant to this subdivision shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.

(e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the local agency to refund the unlawful portion of the payment, with interest at the rate of 8 percent per annum, or return the unlawful portion of the exaction imposed.

(f)(1) If the court grants a judgment to a plaintiff invalidating, as enacted, all or a portion of an ordinance or resolution enacting a fee, dedication, reservation, or other exaction, the court shall direct the local agency to refund the unlawful portion of the payment, plus interest at an annual rate equal to the average rate accrued by the Pooled Money Investment Account during the time elapsed since the payment occurred, or to return the unlawful portion of the exaction imposed.

(2) If an action is filed within 120 days of the date at which an ordinance or resolution to establish or modify a fee, dedication, reservation, or other exactions to be imposed on a development project takes effect, the portion of the payment or exaction invalidated shall also be returned to any other person who, under protest pursuant to this section and under that invalid portion of that same ordinance or resolution as enacted, tendered the payment or provided for or satisfied the exaction during the period from 90 days prior to the date of the filing of the action which invalidates the payment or exaction to the date of the entry of the judgment referenced in paragraph (1).

(g) Approval or conditional approval of a development occurs, for the purposes of this section, when the tentative map, tentative parcel map, or parcel map is approved or conditionally approved or when the parcel map is recorded if a tentative map or tentative parcel map is not required.

(h) The imposition of fees, dedications, reservations, or other exactions occurs, for the purposes of this section, when they are imposed or levied on a specific development.

(Added by Stats.1990, c. 1572 (A.B.3228), § 22. Amended by Stats.1992, c. 605 (A.B.2945), § 1; Stats.1993, c. 589 (A.B.2211), § 80; Stats.1996, c. 549 (A.B.3081), § 2.)

§ 66000

Note 5

5. Judicial notice

Court of Appeals would take judicial notice of legislative history of statutes restricting imposition of real estate development fees, as it was relevant to resolution of whether city excise tax

PLANNING AND ZONING

Title 7

constituted unlawful development fee. Centex Real Estate Corp. v. City of Vallejo (App. 1 Dist. 1993) 24 Cal.Rptr.2d 48, 19 Cal.App.4th 1358, review denied.

§ 66000.5. Mitigation Fee Act; chapters included

This chapter, Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) shall be known and may be cited as the Mitigation Fee Act.

(Added by Stats.1996, c. 799 (S.B.1748), § 6.7.)

Historical and Statutory Notes

Title of act, and legislative findings and declarations relating to Stats.1996, c. 799, see Historical and Statutory Notes under Education Code § 42238.

§ 66001. Fee as condition of approval; agency requirements

(a) In any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall do all of the following:

- (1) Identify the purpose of the fee.
(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.
(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(c) Upon receipt of a fee subject to this section, the local agency shall deposit, invest, account for, and expend the fees pursuant to Section 66006.

(d) For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

- (1) Identify the purpose to which the fee is to be put.

FEES FOR DEVELOPMENT PROJECTS

Div. 1

(2) Demonstrate a reasonable relationship between the fee and the for which it is charged.

(3) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a).

(4) Designate the approximate dates on which the funding referred to in paragraph (3) is expected to be deposited into the appropriate account or fund.

When findings are required by this subdivision, they shall be made in connection with the public information required by subdivision (b) of Section 66006. The findings required by this subdivision need only be made for moneys in possession of the local agency, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date. If the findings are not made as required by this subdivision, the local agency shall refund the moneys in the account or fund as provided in subdivision (e).

(e) Except as provided in subdivision (f), when sufficient funds have been collected, as determined pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 66006, to complete financing on incomplete public improvements identified in paragraph (2) of subdivision (a), and the public improvements remain incomplete, the local agency shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the public improvement will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon. By means consistent with the intent of this section, a local agency may refund the unexpended revenues by direct payment, by providing a temporary suspension of fees, or by any other reasonable means. The determination by the governing body of the local agency of the means by which those revenues are to be refunded is a legislative act.

(f) If the administrative costs of refunding unexpended revenues pursuant to subdivision (e) exceed the amount to be refunded, the local agency, after a public hearing, notice of which has been published pursuant to Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to this chapter and which serves the project on which the fee was originally imposed.

(Added by Stats.1987, c. 927, § 1, operative Jan. 1, 1989. Amended by Stats.1988, c. 418, § 8; Stats.1996, c. 569 (S.B.1693), § 1.)

Law Review and Journal Commentaries

Nollan and Dolan: The end of municipal land use extortion—California perspective. 36 Santa Clara L.Rev. 515 (1996).

Notes of Decisions

Amount 2

Authority of agency 1

District Code

3.04.140 Public and private fire service.

A. Public Fire Service. The district may enter into contracts for fire hydrants and the supplying of water for fire protection use to any other district, public agency or municipality located within the district under such terms and conditions as may be mutually acceptable to the district and the agency.

B. Private Fire Service.

1. The district may grant applications for private fire service for sprinkler service or private fire hydrants. A detector-check type meter shall be required on all private fire service connections. The customer's installation must be such as to effectively separate the fire system from that of the regular water service system. The required meter installation may be installed by the customer in accordance with plans previously approved by the district or may be constructed by the district at the customer's expense.

2. Monthly standby charges for private fire service shall be as follows:

Meter Size	Monthly Charge
3"	\$ 5.00
4"	6.00
6"	9.00
8"	12.50
10"	15.00

Water used for fire suppression shall be furnished without charge.

3. The capacity charge for private fire service shall be twenty-five percent of the water capacity charge established by Appendix A to this chapter. (Ord. 97-86 § 4, 1997; Ord. 95-79 § 1 (part), 1995; Ord. 81-41 § 2, 1981; Ord. 79-35 § 4, 1979; Ord. 78-27 § 7, 1978)

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:

METER SIZE	1997	2001
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:

METER SIZE	INSTALLATION	METER FEE	ACCOUNT FEE
1 INCH or less	\$760	\$170	\$10
1 1/2 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.

(Ord. 97-86 § 6, 1997)

NIPOMO
COMMUNITY
SERVICES DISTRICT

WATER & SEWER
COMPREHENSIVE
FINANCIAL PLAN

APRIL 30, 1996

PREPARED BY - PERRY R. LOUCK, CPA
TEMECULA, CA . (909) 695-6927

A summary of the rate requirements is as follows:

SUMMARY OF RATES UNDER ANALYSIS #1

COMMODITY RATES	1996 (OLD)	1996 (NEW)	1997	1998	1999	2000	2001
0 - 20 hcf	.75	1.25	1.30	1.34	1.42	1.54	1.71
% Increase		66.7%	4.0%	3.0%	6.0%	8.5%	11.0%
20+ hcf	1.15	1.25	1.30	1.34	1.42	1.54	1.71
% Increase		8.7%	4.0%	3.0%	6.0%	8.5%	11.0%

MONTHLY CAPACITY CHARGE BY METER SIZE						
Meter Size	95/96	96/97	97/98	98/99	99/00	00/01
5/8 & 3/4" *	6.50	6.91	6.61	6.49	6.35	6.20
1 Inch *	6.50	6.91	6.61	6.49	6.35	6.20
1-1/2 Inch	15.00	22.81	21.82	21.42	20.97	20.47
2 INCH	21.00	36.64	35.04	34.40	33.68	32.88
3 INCH *	30.00	69.14	66.11	64.91	63.54	62.04

* Although the analysis demonstrates justification for raising the 1 inch monthly fee to \$6.91 per month, it is recommended that the fee be held at \$6.50 until the 98/99 fiscal year. It is also recommended that the required increases for the 1 1/2, 2, and 3 inch meters be phased in over the next five years until the 2001 rate goal is achieved.

RECOVERY OF PRIVATE SYSTEM FIRE PROTECTION COSTS

A significant factor effecting the capital and operating cost of the District is the oversizing of facilities required for increased fire flow protection for commercial and industrial private fire protection systems. In order to equitably recover these additional costs, customers which require a private fire protection system, should be charged both a capital participation fee and monthly capacity fee equivalent to 50% of their fire flow demands. This is accomplished by equating their fire flow demands to an equivalent meter size and then charging the appropriate capital or monthly fee based upon system fire flow oversizing requirements which are estimated at 50%.

OCT 6 1999

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 6, 1999

ENGINEERING SERVICES

ITEM

Review engineering proposals to provide service to evaluate the Summit Station water system.

BACKGROUND

The District has received three (3) proposals from the following engineering firms:

A.	Boyle Engineering	\$5,500.00
B.	Cannon Associates	\$9,800.00
C.	North Coast Engineering, Inc.	\$9,851.00

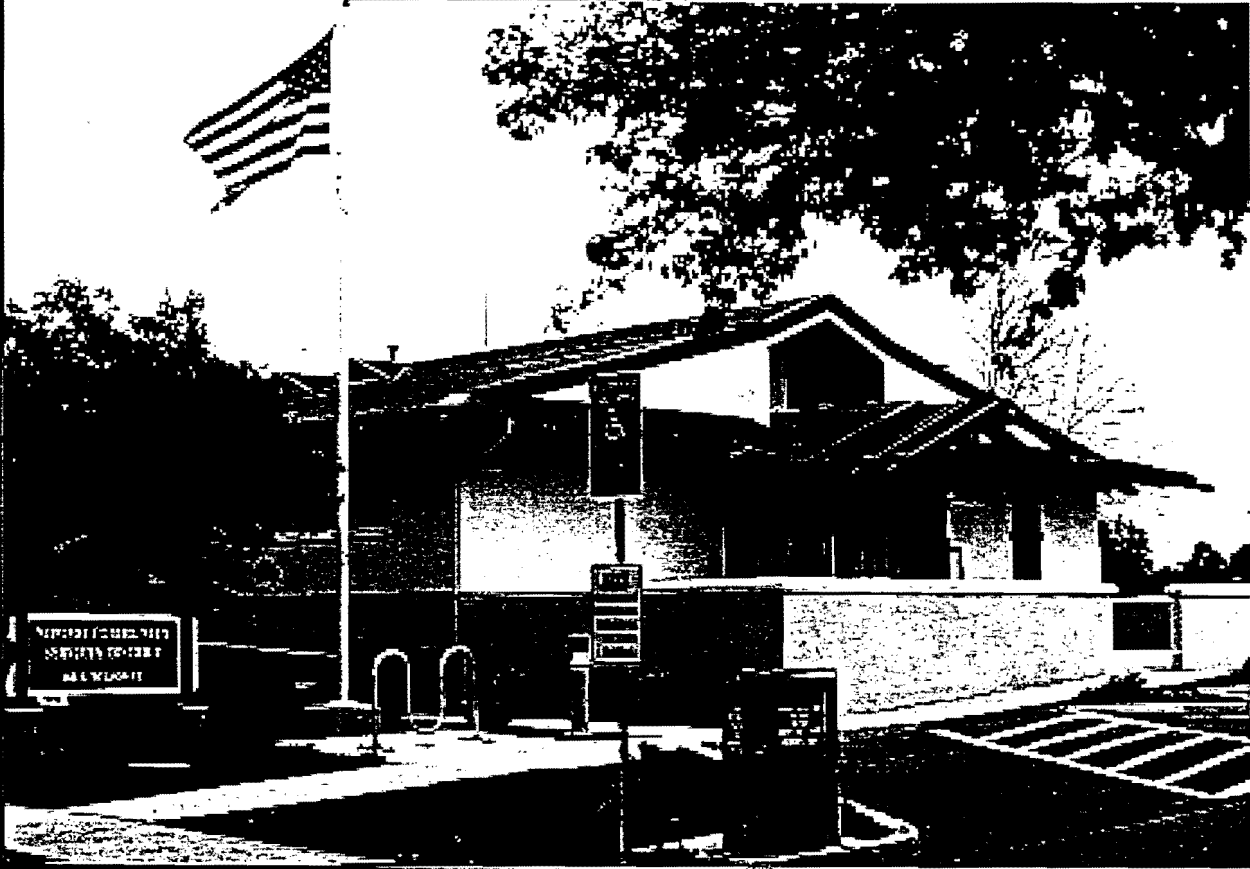
Enclosed is the scope portion of their proposals.

RECOMMENDATION

It is staff's recommendation that a Board sub-committee be selected to review the proposals received and make a recommendation to the Board on selecting an engineer to evaluate the Summit Station water system.

Board99/Eng serv.doc

Submitted to
NIPOMO COMMUNITY SERVICES DISTRICT



Proposal for
Engineering Services

**TO REVIEW THE
ASSESSMENT DISTRICT 93-1
WATER SYSTEM
(SUMMIT STATION AREA)**

September 28, 1999

BOYLE
ENGINEERING CORPORATION

®

BOYLE ENGINEERING CORPORATION

Suite C
973 Higuera Street
San Luis Obispo, CA 93401

805 / 542 - 9840
FAX 805 / 542 - 9990

Mr. Doug Jones, General Manager
NIPOMO COMMUNITY SERVICES DISTRICT
P.O. Box 326
Nipomo, CA 93444

September 28, 1999

**Proposal to Review the Assessment District 93-1 Water System
(Summit Station Area)**

Dear Mr. Jones:

The Nipomo CSD has a problem with the water facilities installed as part of Assessment District 93-1. Namely, a few customers complaints about low water pressure. This has prompted this request for an evaluation and review of the system.

Boyle is in an excellent position to provide the required review. This is a relatively small system for evaluation, but requires a quick turn around of the study. What is required is an evaluation of system pressure records recorded by the District, a comparison to state and local regulations, a review of system design and recommendations to meet regulations or good operating practice. To meet your need we propose to have Bruce Nybo and Rob Livick perform the evaluation with the assistance of Jim Peifer to perform portions of the analysis.

The schedule you have outlined is relatively short, particularly given the Thanksgiving holiday. It also reflects the need to have very focused efforts in the description of the problem and its solutions.

Boyle is in the best position to meet your needs because:

- Our staff has tremendous knowledge of water systems design and operation.
- We will do the work in our local San Luis Obispo office where we maintain the network software for the District's Water Master Plan.
- Boyle has more resources when it comes to knowing the Nipomo Water System.

Firm Background

Boyle Engineering Corporation has provided professional engineering services to communities throughout the West Coast for more than 50 years. Recognized leaders in water supply and distribution, water system evaluations is a frequent line of our work. Since 1990, our San Luis

Obispo office has served the needs of local agencies, including Nipomo Community Services District. Bruce Nybo, PE and his staff of four are supported by the 500+ employees in other Boyle offices. A fifth staff member, Rob Livick, Senior Engineer, will report for work on October 4, 1999. Rob is very experienced in water system evaluation, he is currently completing the network analysis for a 6,000 pipe system in Vancouver Washington. Because of Rob's start date with the San Luis Obispo office, we can commit to meeting the schedule requested by the District as outlined herein.

Similar water system evaluation projects by Boyle/San Luis Obispo include:

<i>Nipomo CSD</i>	Water and Sewer System Master Plan
<i>City of Morro Bay</i>	Water Master Plan Update
<i>City of Morro Bay</i>	Water Master/Management Plan
<i>Atascadero Mutual Water Company</i>	Water Master Plan
<i>Paso Robles</i>	Water System Master Plan and Update
<i>Vandenberg AFB</i>	Water System Improvements

The following table is a partial list of Boyle Engineering Water System Evaluation/Appraisals.

Water System Evaluation / Appraisal

Client	Location	System Identification
Bishop, City of	CA	Water system Improvement Study
East Niles Community Services District	CA	Edison Mutual Water Company Kernita Park Mutual Water Company
Krista Mutual Water Company	CA	Domestic Water Supply
Madera County	CA	Madera Ranchos Water Company
Modesto, City of	CA	Del Este Water Company
Kern County Council of Governments	CA	Kern COG Areawide Water Systems
Corona, City of	CA	Temescal Water Company
Big Bear Lake, City of	CA	Southern California Water Company
Barstow, City of	CA	Southern California Water Company
Scottsdale, City of	AZ	
North of River Municipal Water District	CA	Oildale Mutual Water Company
Santa Ana, City of	CA	Southern California Water Company
Winter Park City of	FL	General Water Works Corporation
Chandler, City of	AZ	Kyrene Water Company Palms Water Company

**Water System Evaluation / Appraisal
Continued**

Client	Location	System Identification
Phoenix, City of	AZ	Sende Vista Water Company Paradise Valley Water Company Deer Valley Utilities Corporation Aqua Fria Utilities, Inc.
Scottsdale, City of	AZ	Paradise Valley Water Company Desert Springs Water Company North Valley Water Company Ironwood Water Company
Kern Delta Water District	CA	Kern Island Water Company Ashe Water Company Kern River Canal & Irrigating Company
Tempe, City of	AZ	Sende Vista Water Company, Inc.
Indian Health Service Navajo Nation	AZ	Navajo Water & Sewerage Facilities
Bakersfield, City of	CA	California Water Service

Staffing

This design project will be managed by Senior Engineer Bruce Nybo, PE. Rob Livick, Senior Engineer, will provide the pressure data and system design evaluation. Jim Peifer, PE will assist in the system evaluation. Both Bruce and Rob will write and present the reports. Quality control review will be provided by Dick Bardin, PE, Principal Engineer.

Project Understanding

The Summit Station area consists primarily of large lots at the highest elevations in the District. Several customers have experienced low water pressure from time to time since the Assessment District improvements were completed in 1994. In an effort to address continuing customer concerns recording pressure readings and spot pressure tests have been conducted by the District. The 1995 Water and Sewer System Master Plan prepared by Boyle Engineering specifically addressed the Summit Station Area. A report addressing the customer concerns was prepared by the District Engineer presented to the Board of Directors in February 1998. Significant growth has occurred in the District and new facilities have been constructed, such as the new Sundale well, which may effect the Summit Station area. The District desires to have an independent engineer review, evaluate and make recommendations, if necessary, to improve the reliability of the Summit Station area water system. System reliability is both a subjective matter and a regulated issue. Minimum standards are established for system pressure by the California Water Works Standards and local ordinances, while normal practice may exceed minimum regulations.

Scope of Work

Boyle Engineering Corporation proposes to provide the following services for the Summit Station area water system.

100 Kick-off Meeting

Attend kick-off meeting with District staff to discuss system reliability parameters; review system concerns; receive District provided documentation and review with staff; review standards and requirements of the California Department of Health Services and local agencies; tour the Summit Station area with District staff and identify problem areas, pressure test locations, distribution system and photographically record key elements; identify system improvements with staff since completion of the Water Master Plan.

200 Evaluation

Evaluate the system data in accordance with legal requirements and good water system practice. Consider the ramifications and cost of adding a domestic system pressure booster pump to the Summit Station area with a fire flow bypass. Verbally report findings to District.

300 Draft Report

310 Document findings of Summit Station water system investigation and evaluation. Submit seven (7) copies to the District for review.

320 Attend a meeting at District offices to discuss draft report.

400 Final Report

Final the report, incorporate District comments and provide seven (7) copies and one reproducible master copy of report.

410 Final Report presentation to Board of Directors at public meeting.

Outline of the Report

Section Description

1.0 Introduction/Background

Provides for a description of the problem along with a description of the purpose of the report and background information. Reference system reliability regulations and common practice.

2.0 Evaluation

- 2.1 Description of Existing System
- 2.2 Analysis of District Data focus on pressure at highest elevation customers
- 2.3 Recommended Improvements (if required)
 - Description of the recommended improvements

3.0 Implementation of Improvements

- 3.1 Implementation
 - Description of how the recommendations may be done
- 3.2 Opinion of Probable Cost

Appendix

Summary of Data

Project Schedule

The addition of Rob Livick to our staff will allow us to meet the District's desired schedule as follows:

<u>Task</u>	<u>Description</u>	<u>Date</u>
100	Kick-off Meeting	10-25-99
110	Verbal Report	11-11-99
310	Deliver Draft Report	11-18-99
320	Subcommittee Review Meeting	11-22-99
400	Deliver Final Report	11-30-99
410	Public Meeting with Board of Directors	12-01-99

Note: the above schedule meets the District's objective. However, to do so, a key meeting is scheduled for Thanksgiving week. This is acceptable to Boyle, providing it is acceptable to the District.

September 28, 1999

Professional Fee

Boyle proposes to provide the services listed herein for the lump sum fee of \$5,500.

The attached fee schedule for professional services would apply to additional authorized services.

Boyle Engineering Corporation is an independent consultant that has been routinely employed by both public and private organizations. We do not have a contract for ongoing services with the Nipomo Community Services District (NCSD), however, we have performed services for NCSD such as the 1995 Master Plan and the 1999 System Replacement Survey. We are confident that a conflict of interest does not exist and therefore feel we are capable of providing an unbiased independent evaluation of the Summit Station area water system.

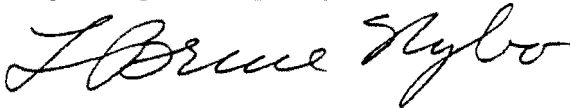
Additional Information Enclosed

- Boyle Engineering Corporation Information Summary
- Project Personnel Resumes
- Project Abstracts
- Fee Schedule

Thank you for inviting us to propose. Please call if anything is unclear or if you wish to discuss this proposal further.

Sincerely,

Boyle Engineering Corporation



L. Bruce Nybo, PE
Assistant Managing Engineer

Copy to: Richard Bardin/VT



ENGINEERS

PLANNERS

SURVEYORS

**Water Reliability Evaluation for
Assessment District 93-1
(Summit Station Area)**

Proposal to Provide Engineering Services

364 PACIFIC STREET
SAN LUIS OBISPO, CA
93401

805•544-7407
FAX 805•544-3863

September 28, 1999

I. Project Understanding

The problems associated with the water reliability of Assessment District 93-1 have compelled the Nipomo Community Services District (District) to perform an evaluation of the reliability of the water system servicing the Summit Station Area.

Since the installation of the Summit Station Area water system, customers have complained to the District and the Department of Health Services (DHS) of low water pressures at their homes. We understand that the DHS cited the District for water pressure problems in this area.

We understand that the District's evaluation has indicated that the pressure problems are coming from the customer side of the meter. Our objective in the evaluation is to determine the reliability of the water system and the reasons for the problems the District's customers are facing.

A Water Master Plan was prepared for the Summit Station Area by Boyle Engineering in 1995 after the construction of the water system. The Master Plan indicated that a booster pump might be necessary once additional homes or services were added to the water system.

To further our understanding of the situation, we researched the history of the Summit Station Area water system and discussed the issues the District has faced with regards to distribution, storage capacity, quality and quantity.

Distribution

Through conversations with District staff, we discovered that during design the residents of the Assessment District 93-1 were able to reduce the cost of the system by reducing fire flow. The California Department of Forestry and Fire Protection (CDF) allowed the reduction from 1,000 gallons per minute (gpm) to 500 gpm based on the assumption that the service area was a rural residential area. Because of the reduction in fire flows, pipe sizes were reduced accordingly.

Storage Capacity, Quality and Quantity

The addition of the Summit Station Area to the District's water system may have adversely affected the storage capacity of the system.

Since the Summit Station Area is at a higher elevation than the rest of the area served by the water system, the water level in the storage tank was increased to maintain acceptable pressures to the Summit Station Area customers. By doing so the tank's storage capacity was diminished.

The higher water level in the tank also creates a volume of water that remains stagnant for long periods of time. This stagnant water can cause water quality problems in the system.

II. Project Approach

During our evaluation of the water system, we will investigate the three main components of the water system that include the water source, treatment and storage, and transmission and distribution.

We will use the DHS method for performing a water reliability evaluation called the *Technical, Managerial and Financial Capacity Criteria for Community Water Systems* (referred to as the TMF Capacity Criteria). While different approaches to reliability studies exist, we recommend following the DHS methodology since they regulate the District and have issued a citation.

The TMF Capacity Criteria for reliability evaluations states:

"The 1996 Federal Safe Drinking Water Act (SDWA) introduced the concept of Technical, Managerial and Financial (TMF) Capacity for public water systems. This concept involves a public water system having the capability through its financial resources, technical resources, organizational structure and personnel to comply with all applicable drinking water standards and regulations. In addition, the concept of capacity involves being able to plan for the future and use the necessary resources to keep the water system in compliance. The federal SDWA encourages, and in some circumstances requires, states to incorporate the TMF Capacity concept into their drinking water regulatory program. The DHS is developing and implementing a strategy to incorporate TMF Capacity development into California's drinking water regulatory program. The TMF Capacity Criteria contained in this document is a part of the Department's TMF Capacity development strategy."

"The definitions of Technical, Managerial, and Financial Capacity given in guidance published by the United States Environmental Protection Agency (USEPA) are very general in nature. As such, the Department has developed criteria to use in assessing the TMF Capacity of public water systems in the state of California."

The TMF Capacity Criteria discussed above were developed after the installation of the Summit Station Area water system. Given the current DHS citation, we believe that this is the best methodology to use for this evaluation. See Appendix A for TMF Capacity Criteria to be evaluated for this project.

III. Scope of Services

We will prepare a report to evaluate the reliability of the Summit Station Area water system and address the following items from the Department of Health Services TMF Capacity Criteria (see report outline in Appendix B).

Evaluation of System Description

We will review the current NCSD as-built drawings and system maps. We will determine if they adequately show the existing and future service areas, as well as the critical facilities that are essential to the operation of the Summit Station Area water system. We will evaluate the procedure for preparing and maintaining as-built drawings for all new facilities. We will check to see that the service area map(s) are accurate and include the location of all the water system physical facilities. We will compare our findings with the TMF Capacity Criteria.

Technical Evaluation

Transmission and Distribution of Summit Station Area

We will conduct a hydraulic analysis of the transmission and distribution system and evaluate the system's ability to provide daily, peak daily, and peak monthly demands. We will review the distribution system's capacity and operational ability to provide the pressure specified in CCR, Title 22, and Section 64566, including local fire flow.

We will review the condition and remaining service life of existing facilities. We will identify all critical facilities and/or equipment whose failure would result in a water outage

and/or a water quality failure. We will also review the adequacy of the plans/procedures for dealing with such failures. We will recommend improvements that are needed to meet minimum reliability standards. We will also make a recommendation as to whether property owners should install on-site system improvements.

Quality, Quantity and Storage

We will review the system to determine if the addition of the Summit Station Area adversely impacted the District's existing storage capacity and/or water quality.

Operations Plans

We will review the District's operations plan and compare it to the TMF Capacity Criteria.

Certified/Qualified Operators

We will review the District's certification/qualification requirements for operators and compare it to the TMF Capacity Criteria.

Training

We will review the NCSD training program and compare it to the TMF Capacity Criteria.

Emergency/Disaster Response Plans

We will review the existing Emergency/Disaster Response Plans to see if they address all elements in sufficient detail to ensure adequate system response during an emergency.

Policies

If the District desires, we will review its written customer service policies and operations policies of the water system.

IV. Project Schedule

We intend to follow the project schedule set forth in the Request for Proposal. Please see Appendix C for a Gantt chart of the project schedule detailed by task.

V. Estimated Fees

We estimate a fee of \$9,800 to complete this project.

The TMF Capacity Criteria used for the proposed report are summarized in the following table.

Community Water System TMF Capacity Criteria

Evaluation Component	Evaluation Approach
I. Technical Capacity <ol style="list-style-type: none"> 1. System Description 2. Source Capacity Assessment and Evaluation 3. Technical evaluation 4. Operations Plans 5. Certified/Qualified Operators 6. Training 	<ol style="list-style-type: none"> 1. Review NCSD plans and documents. Comment thereon. 2. No action proposed (NCSD is currently in litigation on groundwater supply.) 3. Review NCSD documents; determine if they address the TMF evaluation requirements and regulatory requirements. 4. Review NCSD documents; determine if they address the TMF evaluation requirements and regulatory requirements. 5. Review NCSD's Operators qualifications. Determine if they comply with regulations. 6. Review NCSD's current training program; compare and contrast to TMF evaluation requirements.
II. Managerial Capacity <ol style="list-style-type: none"> 7. Ownership 8. Organization 9. Water Rights 10. Planning 11. Emergency/Disaster Response Plan 12. Customer Service Policies 	<ol style="list-style-type: none"> 7. No action proposed for the project. 8. No action proposed for the project. 9. No action proposed for the project. 10. No action proposed for the project. 11. Review NCSD's Emergency Response Plans. Compare to state requirements . 12. No action proposed for the project.

<p>III. Financial Capacity</p> <p>13. Budget Projection</p> <p>14. Reserves</p> <p>15. Capital Improvement Plan/Equipment Replacement</p> <p>16. Budget Control</p>	<p>13. No action proposed for the project.</p> <p>14. No action proposed for the project.</p> <p>15. No action proposed for the project.</p> <p>16. No action proposed for the project.</p>



NORTH COAST ENGINEERING, INC.

Civil Engineering ▪ Land Surveying ▪ Project Development

September 28, 1999

Board of Directors
Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444-0326

Attn: Doug Jones, General Manager

Subject: Proposal for Professional Engineering Services
Assessment District 93-1 Water System Analysis

Thank you for the opportunity to present this proposal for engineering services. From our discussion with District staff, we understand that although the subject water system is only five years old, a significant number of complaints about the system have been registered by District customers, and that your Board wishes to have an independent evaluation of the system to determine what improvements, if any, are necessary to meet Title 22 and CDF standards.

North Coast Engineering, Inc, proposes to provide the following services:

- Meet with District staff to collect and review data provided by the District.
- Conduct a field survey of AD 93-1 to familiarize NCE staff with any physical constraints.
- Using data provided by the District, prepare a three-dimensional electronic map of the AD 93-1 water system to be used for network analysis.
- Perform network analyses of the AD 93-1 water system using Haestad Methods Cybernet programs under various supply and demand conditions. If the analyses indicate that any part of the system is inadequate to meet Title 22 and CDF standards, determine what system improvements are needed.
- Draft a report of findings with graphics and tabulations sufficient for clear presentation.
- Meet with District staff and a Board sub-committee to review the draft report.

- Prepare a final report of findings. The final report will include a description of the existing system, a summary of the Title 22 and CDF requirements applicable to the system, tabulations and maps showing flow rates and pressures throughout the system under different supply/demand scenarios, and descriptions of recommended improvements to the system, if any.
- Present the final report to the District's Board at a public meeting.
- Provide all of these services on the timetable listed in your Request For Proposals.
- Topographic surveying and mapping are specifically excluded from this proposal.

We understand that the District will provide for our use:

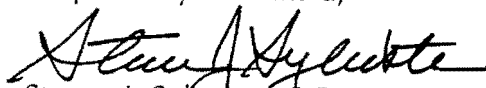
- Engineering drawings and maps of the AD 93-1 water system and of those parts of the District's water system affecting flow rates and pressures within AD 93-1.
- Copies of water system customer complaints related to the function of the AD 93-1 water system.
- Water system reports and records including hydrant flow tests in and near AD 93-1.
- A copy of the District's Water Master Plan.

North Coast Engineering has served as District Engineer for the Cambria Community Services District for over 20 years, and is also under contract as City Engineer for the cities of Atascadero and Morro Bay. We have extensive experience in water system design, including pumping, storage, and distribution systems, and believe we are well qualified to perform the services requested. If selected for this project, we intend to assign the work to Ron McAlpin, who has for the last 9 years acted as Assistant District Engineer for Cambria. Oversight of the project will be by Steve Sylvester, principal of the firm, with technical support by Christy Gurries, a talented and promising recent Cal Poly civil engineering graduate. These individuals' resumes are enclosed.

We estimate that our total fee for providing these services will be \$9,851.00, based on our current hourly rates. A copy of our current fee schedule is enclosed.

Again, we appreciate the opportunity to make this proposal.

Respectfully Submitted,


Steven J. Sylvester, P.E.

Enclosures

SJS/tas



TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 6, 1999

AGENDA ITEM
OCT 6 1999

7

CONSENT AGENDA

A Consent Agenda is established as a time-saving mechanism to approve a number of administrative items the Board may consider in a group. These items are non-controversial and administrative in that aspect. Any one of the Board members may pull any one of the items in the Consent Agenda to be discussed individually.

- a) BOARD MEETING MINUTES (APPROVE)
Approval of minutes of the September 15, 1999 Regular Board meeting.
- b) WARRANTS (APPROVE)
- c) BOARD OF DIRECTORS BY-LAWS (APPROVE)
Review and adopt amendments to Sections 3.3 and 8 of the By-Laws, Res. No. 99-710

C:\W:\Bd99\Consent OCT.DOC

NIPOMO COMMUNITY SERVICES DISTRICT

AGENDA ITEM

7a

MINUTES

DRAFT

SEPTEMBER 15, 1999 7:00 P.M.
BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

ROBERT BLAIR, PRESIDENT
GENE KAYE, VICE PRESIDENT
AL SIMON, DIRECTOR
RICHARD MOBRAATEN, DIRECTOR
ALEX MENDOZA, DIRECTOR

STAFF

DOUGLAS JONES, GENERAL MANAGER
DONNA JOHNSON, SECRETARY TO THE BOARD
JON SEITZ, GENERAL COUNSEL

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson.

CALL TO ORDER AND FLAG SALUTE

1. ROLL CALL

President Blair called the September 15, 1999 meeting to order at 7:00 p.m.
At Roll Call, all Board members were present.

PUBLIC COMMENTS PERIOD

2. PUBLIC COMMENTS

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board.
Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.

There were no public comments.

BOARD ADMINISTRATION (The following may be discussed and action may be taken by the Board.)

Since the auditor had not yet arrived, the Board addressed agenda items #4 and #5 prior to addressing agenda item #3.

4. DISPLAY OF AWARD

Olde Towne Association requests to display their award in the Board Room

In a letter addressed to NCSD, Kathy Kubiak, Chair of the Olde Town Association requested permission to display their awards in the NCSD meeting room.

Director Kaye suggested they hang it where they hold their regular meetings-Creekside Cafe.

There were no public comments.

Upon motion of Director Simon and seconded by Director Mendoza, the Board approved the request with a vote of 4-1 with Director Kaye dissenting.

5. COMMUNITY CLEAN-UP EVENT

Clean-Up scheduled for October 16 & 17 and request for financial assistance

In a letter addressed to NCSD, Susie Morrison, Fundraising Chairman of Nipomo Pride-A Community Cleanup Event, requested support and a donation of \$250.00 to defer the cost of the start up of the project. The Directors were supportive of making the donation. The following options were presented 1) the District making the donation out of the property tax fund or 2) each Director contributing \$50.00 individually.

During this agenda item, the following member of the public spoke:

Susie Morrison, Fundraising Chairman of Nipomo Pride-requested a one-time donation of \$250.00 to help Phase I of their project.

Lloyd Clark, San Luis Obispo County Enforcement Officer-spoke in support of the cleanup and stated he is providing assistance to the group

Mike Winn 233 E. Knotts-spoke in support of the cleanup and stated a donation collectively from the District would be better than from the Board members individually

DRAFT

Upon the motion of Director Kaye and seconded by Director Mobraaten, the Board unanimously approved Resolution 99-709.

**RESOLUTION 99-709
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING THE
EXPENDITURE OF \$250.00 TO SUPPORT THE COMMUNITY-WIDE
CLEAN UP EVENT**

3. **AUDIT REPORT FY 1998-99**

Report of the District audit for Fiscal Year 1998-99 – Carlos Reynoso, CPA

Carlos Reynoso, CPA presented the audit for the Fiscal year 1998-99 to the Board of Directors. There were no public comments.

On the motion of Director Kaye and seconded by Director Simon, the board unanimously agreed to accept and file the audit report for 1998-99.

6. **SAN LUIS BAY APARTMENTS – INTENT TO-SERVE (APN 092-130-048)**

Request for service for a 120 unit apartment complex at Blume and Grande Ave

Mr. Jones presented the conditions of the proposed Intent-to-Serve.

During this agenda item, the following members of the public spoke:

Leon Mills, Project Engineer, of Knopf Sharp- Stated developer agrees to conditions of Intent-to-Serve and made a correction to APN 092-130-046

Dwight Long, Principal of the Bay Development Group-Discussed the project, its tax credit status and the government requirements for affordable housing.

Mike Schulte, Attorney for Bay Development Group-Discussed the project, its tax credit status and the government requirements for affordable housing.

Director Kaye stated he is against the project primarily because of the water right litigation, problems with the present system and from the negative input from the community. As of September 1, 1999, Director Kaye stated that he will not approve any Will-Serve letters or Intent-to-Serve letters until the litigation is completed. Director Mobraaten concurred with Director Kaye.

District Council suggested this item be continued to allow the Board to review its option regarding water issues and the property tax issues. Upon the motion of Director Kaye and seconded by Director Mobraaten, the board unanimously agreed to table this item to the October 6, 1999 Board Meeting.

7. **SOUTHLAND SEWER REIMBURSEMENT (Information Item)**

Review developer's costs and cost spread for connection to developer-constructed sewer line

Mr. Jones presented the Southland Sewer Reimbursement cost spread, outlined the procedures and dates of the filing of protests and public hearings.

There were no public comments. No action required.

MINUTES SUBJECT TO BOARD APPROVAL

DRAFT

District Legal Counsel, Jon Seitz, announced the need to go into Closed Session concerning the matters below.

CLOSED SESSION

- CONFERENCE WITH LEGAL COUNSEL GC§54956.9 (a) & (b)
- a. SMVWCD vs NCSD Case No. CV 770214 and related cases
Case Nos. CV 990556, CV 990391, CV 990392, CV 990558, CV 990266, CV 770214,
SM 113422, SM 112867, SM 113425, SM 113421
 - b. NCSD vs. STATE DEPT OF HEALTH SERVICES CV 990706

The Board came back into Open Session and had no reportable action.

ADJOURN

President Blair adjourned the meeting at 9:37 p.m.

MINUTES SUBJECT TO BOARD APPROVAL

DRAFT

8. BOARD OF DIRECTORS BY-LAWS
Sub-committee report on By-Laws

Directors Mendoza and Simon reported to the Board their comments from the Sub-Committee meeting. It was recommended that staff put more time into the preparation of the minutes to ensure accuracy and completeness. Sometimes vital information is not always found in the minutes. It was also recommended that the public side of the debate of issues be equally presented in the minutes. Also, items not related to a specific agenda item should not be included in the minutes

The committee also recommended modifications to Sections 3.3 and 8 of the Board By-Laws. There were no public comments. The Board of Directors directed staff to place the modifications to the Board By-Laws on the next agenda for consideration.

9. **CONSENT AGENDA** *The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the consent agenda and will be considered separately. Questions or clarification may be made by the Board members without removal from the Consent Agenda. The recommendations for each item are noted in parenthesis.*

- a) BOARD MEETING MINUTES (APPROVE)
Approval of minutes of the August 18, 1999 Regular Board meeting.
- b) WARRANTS (APPROVE)
- c) AMENDMENT OF RESOLUTION NO. 99-704 (Folkert Oaks Capacity Fees) (APPROVE)
Correcting the Capacity Fee transfer amount – Res No. 99-707
- d) NOTICE REGARDING ENVIRONMENTAL ACTION – RES NO. 99-708 (APPROVE)
This action requires an annual request by the public to receive environmental determinations

RESOLUTION 99-707

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AMENDING RESOLUTION 99-706

RESOLUTION 99-708

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT REQUIRING ANNUAL RENEWAL OF REQUEST FOR PUBLIC NOTICE ON ENVIRONMENTAL MATTERS

There were no public comments. The warrants will now be sent out with the packet so the Board has more time to review them. Upon motion of Director Kaye and seconded by Director Mendoza, the Board unanimously approved the Consent Agenda.

OTHER BUSINESS

10. MANAGER'S REPORT

Manager Doug Jones presented information on the following:

1. SLO COUNTY ECONOMICS ELEMENT TO GENERAL PLAN
2. INFORMATION ON SB 985
3. EMPLOYEE WORK HOURS
4. CONSTRUCTION STATUS REPORT

11. DIRECTORS COMMENTS

Director Kaye commented on the Chamber of Commerce, Greenhouse Committee and Planning Commission meetings.

Director Mobraaten asked about the status of the Replacement Study. Mr. Jones stated Administrative draft is being reviewed by staff.

Director Blair stated he spoke at the Board of Supervisor's Meeting.

WARRANTS OCTOBER 6, 1999

HAND WRITTEN CHECKS

18218	Western Consolidated	107.65
18219	Nipomo Community Clean Up Committee	250.00

VOIDS

Check Numbers 18215, 11111, 11116

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COMPUTER GENERATED CHECKS

11153	09/30/99	DOUG JONES	\$300.00
11154	09/30/99	PUBLIC EMPLOYEES RETIREMENT SYSTEM	\$1,851.02
11155	09/30/99	STATE COMPENSATION INSURANCE FUND	\$2,177.28
11156	10/06/99	ADVANTAGE ANSWERING PLUS	\$103.95
11157	10/06/99	ALL PURE CHEMICAL CO	\$2,386.37
11158	10/06/99	AVCO FIRE EXTINGUISHER CO.	\$164.03
11159	10/06/99	ROBERT BLAIR	\$290.96
11160	10/06/99	BOYLE ENGINEERING CORPORATION	\$3,150.00
11161	10/06/99	CHEVRON	\$610.75
11162	10/06/99	DANA PROPERTIES	\$205.90
11163	10/06/99	D-KAL ENGINEERING	\$42,592.40
11164	10/06/99	EASTER RENTS	\$75.08
11165	10/06/99	FGL ENVIRONMENTAL ANALYTICAL CHEMIST	\$1,032.40
11166	10/06/99	G.A.S. HEATING & COOLING, INC.	\$135.00
11167	10/06/99	GTE CALIFORNIA	\$26.79
11168	10/06/99	GTE WIRELESS	\$13.05
11169	10/06/99	GREAT WESTERN ALARM AND COMMUNICATIO	\$25.00
11170	10/06/99	IKON OFFICE SOLUTIONS	\$57.97
11171	10/06/99	JOHNSON, DONNA	\$13.45
11172	10/06/99	GENE KAYE	\$100.00
11173	10/06/99	McMILLEN CONSTRUCTION COMPANY	\$665.00
11174	10/06/99	McKESSON WATER PRODUCTS	\$27.40
11175	10/06/99	MAINLINE	\$7,950.00
11176	10/06/99	ALEX MENDOZA	\$721.55
11177	10/06/99	MID STATE BANK-MASTERCARD	\$206.32
11178	10/06/99	MOBRAATEN, RICHARD	\$100.00
11179	10/06/99	NICKSON'S MACHINE SHOP	\$39.38
11180	10/06/99	NIPOMO AUTO PARTS	\$11.79
11181	10/06/99	OVERHEAD DOOR COMPANY OF SLO	\$101.75
11182	10/06/99	P G & E	\$50,251.97
11183	10/06/99	PACIFIC BELL	\$165.40
11184	10/06/99	PENINSULA PUMP & EQUIPMENT	\$83.49
11185	10/06/99	CALPERS HEALTH BENEFIT DIVISION	\$2,896.46
11186	10/06/99	PETTY CASH-MIDSTATE BANK	\$165.10
11187	10/06/99	PRECISION JANITORIAL SERVICE	\$135.00
11188	10/06/99	RICHARDS, WATSON & GERSHON	\$17,545.53
11189	10/06/99	SAN LUIS OBISPO COUNTY	\$5.00
11190	10/06/99	SAN LUIS OBISPO COUNTY HEALTH DEPART	\$1,601.99
11191	10/06/99	SANTA MARIA TOOL, INC.	\$81.00
11192	10/06/99	SHIPSEY & SEITZ, INC.	\$4,141.84
11193	10/06/99	ALBERT SIMON	\$100.00
11194	10/06/99	SOUTHERN CALIF GAS COMPANY	\$55.28
11195	10/06/99	TERMINIX INTERNATIONAL	\$42.00
11196	10/06/99	UNDERGROUND SERVICE ALERT	\$148.00
11197	10/06/99	USA BLUE BOOK	\$755.45
11198	10/06/99	WESTBURNE/AIR COLD INC.	\$78.44

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: OCTOBER 6, 1999

AGENDA ITEM
OCT 6 1999



BOARD OF DIRECTORS BY-LAWS

ITEM

Revision of the Board of Directors By-Laws

BACKGROUND

At the regular Board meeting held on September 15, 1999, sub-committee members Alex Mendoza and Dick Mobraaten made recommendations for modifications to the Board By-Laws. The modifications are shown on paragraph 3.3 and paragraph 8.

RECOMMENDATION

If the Board agrees to these changes, they may adopt the attached Resolution No. 99-710 approving the changes in the District's Board By-Laws.

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**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 99-710**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
REVISING BOARD BYLAWS**

WHEREAS, the Board of Directors of Nipomo Community Services District is committed to providing excellence in legislative leadership that results in the provision of the highest quality of services to its constituents.

WHEREAS, in order to assist in the government of the behavior between and among members of the Board of Directors, the following rules shall be observed.

WHEREAS, the District is a member of the Special District Risk Management Authority (SDRMA). The District participates in the SDRMA Credit Incentive Program which includes the adoption of Board policies and procedures (Directors By-laws) for the District to receive a one point credit.

WHEREAS, SDRMA has adopted 1998-1999 Credit Incentive Program whereby the District can receive a one point credit for an annual review of Board By-Laws conducted by the District's Legal Counsel and ratified by Board action.

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

NIPOMO COMMUNITY SERVICES DISTRICT BOARD OF DIRECTOR BYLAWS

1. OFFICERS OF THE BOARD OF DIRECTORS

1.1 The officers of the Board of Directors are the President and Vice President.

1.2 The President of the Board of Directors shall serve as chairperson at all Board meetings. He/she shall have the same rights as the other members of the Board in voting, introducing motions, resolutions and ordinances, and any discussion of questions that follow said actions.

1.3 In the absence of the President, the Vice President of the Board of Directors shall serve as chairperson over all meetings of the Board. If the president and Vice President of the Board are both absent, the remaining members present shall select one of themselves to act as chairperson of the meeting.

1.4 The President and Vice President of the Board shall be elected annually at the last regular meeting of each calendar year.

1.5 The term of office for the President and Vice President of the Board shall commence on January 1 of the year immediately following their election.

1.6 The Board President shall appoint such ad hoc committees as may be deemed necessary or advisable by himself/herself and/or the Board. The duties of the ad hoc committees shall be outlined at the time of appointment, and the committee shall be considered dissolved when its final report has been made.

2. MEETINGS

2.1 Regular meetings of the Board of Directors shall be held on the first and third Wednesday of each calendar month in the Board Room at the District Office.

2.2 Members of the Board of Directors shall attend all regular and special meetings of the Board unless there is good cause for absence.

2.3 The General Manager, in cooperation with the Board President, shall prepare an agenda for each regular and special meeting of the Board of Directors. Any Director may call the General Manager and request an item to be placed on the agenda no later than 4:30 o'clock p.m. one week prior to the meeting date.

2.4 No action or discussion may be taken on an item not on the posted agenda; provided, however, matters deemed to be emergencies or of an urgent nature may be added to the agenda under the procedures of the Brown Act. Pursuant to the Brown Act:

- (a) Board Members may briefly respond to statements or questions from the public; and
- (b) Board Members may, on their own initiative or in response to public questions, ask questions for clarification, provide references to staff or other resources for factual information, or request staff to report back at a subsequent meeting; and
- (c) A Board Member or the Board itself may take action to direct staff to place a matter on a future agenda.

2.5 The President, or in his/her absence the Vice President shall be the presiding officer at District Board meetings. He/she shall conduct all meetings in a manner consistent with the policies of the District. He/she shall determine the order in which agenda items shall be considered for discussion and/or actions taken by the Board. He/she shall announce the Board's decision on all subjects. He/she shall vote on all questions and on roll call his/her name shall be called last.

2.6 A majority of the Board shall constitute a quorum. However, all actions must be approved by a minimum of three Board members. When there is no quorum for a regular meeting, the President, Vice President, or any Board member shall adjourn such meeting, or, if no Board member is present, the District secretary shall adjourn the meeting.

2.7 A roll call vote shall be taken upon the passage of all ordinances and resolutions, and shall be entered in the minutes of the Board showing those Board members voting aye, those voting no and those not voting or absent. A roll call vote shall be taken and recorded on any vote not passed unanimously by the Board. Unless a Board member states that he or she is not voting because of a conflict of interest, his or her silence shall be recorded as an affirmative vote.

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 99-710
PAGE 3

2.8 Public Comment and Public Testimony shall be directed to the President of the Board and limited to three minutes unless extended or shortened by the President in his/her discretion.

2.9 Any person attending a meeting of the Board of Directors may record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding that the recording cannot continue without noise, illumination, or obstruction of view that constitutes or would constitute a persistent disruption of the proceedings. All video tape recorders, still or motion picture cameras shall be located and operated from behind the public speakers podium once the meeting begins.

3. PREPARATION OF MINUTES AND MAINTENANCE OF TAPES

3.1 The minutes of the Board shall be kept by the District Secretary and shall be neatly produced and kept in a file for that purpose, with a record of each particular type of business transacted set off in paragraphs with proper subheads;

3.2 The District Secretary shall be required to make a record only of such business as was actually passed upon by a vote of the Board and, except as provided in Section 3.3 below, shall not be required to record any remarks of Board Members or any other person;

3.3 ~~Directors~~ Any Director may request for inclusion into the minutes brief comments pertinent to an agenda item, only at the meeting that item is discussed.

3.4 The District Secretary shall attempt to record the names and addresses of persons addressing the Board, the title of the subject matter to which their remarks related, and whether they spoke in support or opposition to such matter; and

3.5 Whenever the Board acts in a quasi-judicial proceeding such as in assessment matters, the District Secretary shall compile a summary of the testimony of the witnesses.

3.6 Any tape or film record of a District meeting made for whatever purpose at the direction of the District shall be subject to inspection pursuant to the California Public Records Act. District tape and film records may be erased ninety (90) days after the taping or the recording.

4. MEMBERS OF THE BOARD OF DIRECTORS

4.1 Directors shall prepare themselves to discuss agenda items at meetings of the Board of Directors. Information may be requested from staff or exchanged between Directors before meetings.

4.2 Information that is exchanged before meetings shall be distributed through the General Manager, and all Directors will receive all information being distributed.

4.3 Directors shall at all times conduct themselves with courtesy to each other, to staff and to members of the audience present at Board meetings.

4.4 Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and opinions, but without being disagreeable. Once the Board of

Directors takes action, Directors should commit to supporting said action and not to create barriers to the implementation of said action.

5. AUTHORITY OF DIRECTORS

5.1 The Board of Directors is the unit of authority within the District. Apart from his/her normal function as a part of this unit, Directors have no individual authority. As individuals, Directors may not commit the District to any policy, act or expenditure.

5.2 Directors do not represent any fractional segment of the community, but are, rather, a part of the body which represents and acts for the community as a whole.

5.3 The primary responsibility of the Board of Directors is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are to be delegated to professional staff members of the District.

5.4 The Board of Directors at a regular or special meeting may authorize a Director or Staff to speak on behalf of the District or represent the District at a meeting or related function.

5.5 A Director expressing comments other than at Board Meetings, Special Meeting or at the specific direction of the Board of Directors pursuant to Section 5.4 shall make it clear that he/she is speaking on his/her own behalf and not representing the District or its Board of Directors.

6. DIRECTOR GUIDELINES

6.1 Board Members, by making a request to the General Manager or Administrative Assistant, shall have access to information relative to the operation of the District, including but not limited to statistical information, information serving as the basis for certain actions of Staff, justification for Staff recommendations, etc. If the General Manager or the Administrative Assistant cannot timely provide the requested information by reason of information deficiency, or major interruption in work schedules, work loads, and priorities, then the General Manager or Administrative Assistant shall inform the individual Board Member why the information is not or cannot be made available.

6.2 In handling complaints from residents and property owners of the District, said complaints should be referred directly to the General Manager.

6.3 In seeking clarification for policy-related concerns, especially those involving personnel, legal action, land acquisition and development, finances, and programming, said concerns should be referred directly to the General Manager.

6.4 When approached by District personnel concerning specific District policy, Directors should direct inquires to the General Manager or Administrative Assistant. The chain of command should be followed.

6.5 Directors and General Manager should develop a working relationship so that current issues, concerns and District projects can be discussed comfortably and openly.

6.6 When responding to constituent request and concerns, Directors should respond to individuals in a positive manner and route their questions to the General Manager, or in his/her absence, to the Administrative Assistant.

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 99-710
PAGE 5

6.7 Directors are responsible for monitoring the District's progress in attaining its goals and objectives, while pursuing its mission.

7. DIRECTOR COMPENSATION (Established pursuant to Resolution 95-450)

7.1 Each Director is authorized to receive one hundred dollars (\$100.00) as compensation for each regular, adjourned or special meeting of the Board attended by him/her and for each day's service rendered as a Director by request of the Board.

7.2 Each Director is authorized to receive fifty dollars (\$50.00) as a compensation for each meeting other than regular, adjourned or special meetings and/or other function attended by him/her and each half day's service rendered as a Director at the request of the Board.

7.3 Director compensation shall not exceed six full days in any one calendar month.

7.4 Each Board Member is entitled to reimbursement for their expenses incurred in the performance of the duties required or authorized by the Board.


8. BOARD BY-LAW REVIEW POLICY

The Board By-law Policy shall be reviewed annually at the first regular meeting in February. The review shall be provided by District Counsel and ratified by Board action. At the request of any Director, the Board By-Laws may be reviewed at any time subject to Section 2.3.

9. RESTRICTIONS ON RULES

9.1 The rules contained herein shall govern the Board in all cases to which they are applicable, and in which they are not inconsistent with State or Federal laws.

OCT 6 1999

TO: BOARD OF DIRECTORS
FROM: DOUG JONES 
DATE: OCTOBER 6, 1999

MANAGER'S REPORT**1. CSDA ANNUAL CONFERENCE**

The following workshops were presented during the conference of the California Special District's Association.

1. Measuring The Performance Of You Agency
2. When Your District Is In For A Rough Time
3. Public Education/Perception Campaign
4. Nuts And Bolts Of Public Contracting
5. Innovative Technology Solutions
6. Creating Customer Service Excellence
7. Water Treatment In The 21st Century
8. Contract Employees: Temporary Or Permanent?
9. Web-Based GIS For Small Districts
10. Preserve And Add Direct Assessment Dollars
11. Managing Perspective Of PR
12. Ten-Year Capital Improvement Planning
13. Top Ten Trends In Government Technology
14. Board Ethics

2. CORRESPONDENCE ON DANA ADOBE PLANNING MEETING
(See attached)**3. NIPOMO GROUNDWATER LITIGATION INFORMATION**

Some customers have inquired why their water rates have increased. The attached sheet was developed for an information hand-out.



September 24, 1999

Dear Doug Jones and NCSD,

We need your help and ideas. The Dana Adobe Nipomo Amigos (D.A.N.A.) is a non profit group newly formed to restore the Dana Adobe. I am writing to invite you to a planning meeting with Supervisor, Katcho Achajian on October 7, 1999 at 4:00PM at the Nipomo Library Conference Room. We are inviting community leaders and organizations to work with us in planning a campaign to gain support for the restoration of the Adobe and the preservation of the agricultural land around the Adobe. We need to all work together to help preserve the cultural and historic heritage of Nipomo. We are a community that cares about the environment, culture and neighbors around us. Your past and present efforts on behalf of Nipomo are greatly appreciated. Now we ask you to spend an hour with us brainstorming the best avenues for preserving the Adobe and its cultural landscape. Please come with ideas you or the organization you represent may want to add. We want to help meet your needs as we help the community of Nipomo. We look forward to your ideas. Please call me at home at 929-8140 or at work , Nipomo School, at 473-4145 if you have questions. You may also contact Lisa VanDerStad, the Commissioner of the Adobe with ideas at 929-4507. Working together we can do great things.

Sincerely,

Kathy Veder
President, D.A.N.A.

Planning Meeting with Katcho

Thursday, October 7, 1999
4:00 PM Nipomo Library

RECEIVED

SEP 29 1999

NIPOMO COMMUNITY
SERVICES DISTRICT

Post Office Box 729

Nipomo, California 93444-0729

Copy of document found at www.NoNewVipFax.com

(805) 929-3125

NIPOMO COMMUNITY SERVICES DISTRICT

148 SOUTH WILSON STREET
POST OFFICE BOX 326 NIPOMO, CA 93444-0326
(805) 929-1133 FAX (805) 929-1932

NIPOMO GROUNDWATER LITIGATION INFORMATION

The Nipomo Community Services District water supply comes from wells drilled on the Nipomo Mesa. The Nipomo Mesa is part of the Santa Maria groundwater basin which, in the view of some engineers, extends from Orcutt to the Arroyo Grande/Grover Beach area and from the ocean easterly to Sisquoc. In July of 1997 the Santa Maria Valley Water Conservation District filed a lawsuit against the City of Santa Maria, the City of Guadalupe and Southern California Water Company (a private water company) over groundwater rights and the storage of water in the groundwater basin. In January 1999, the District was brought into the lawsuit by the Santa Maria Valley Water Conservation District and with a cross-complaint filed by the City of Santa Maria.

The District has hired Mr. Jim Markman, a groundwater rights attorney from the firm Richards, Watson and Gershon, to represent the District in defending its groundwater pumping rights. The lawsuit is primarily over who can store water in the basin, who can pump water from the basin, the amount that they can pump and the costs of preserving the basin as a resource. The District is seeking a judicial determination of its own and all other parties rights to produce groundwater from and store groundwater in the basin and for an order to impose a physical solution for managing the groundwater in the basin. To cover the cost of this litigation, the District has had to raise its water rates.

Based on published reports, the District has stated on a number of occasions that the Nipomo Mesa area groundwater is in an overdraft condition. A recent published Department of Water Resources study entitled "Water Resources of the Arroyo Grande-Nipomo Mesa Area" dated June 1999, indicates a substantial pumping depression has developed on the mesa. This appears to have reversed the groundwater flow previously going from the mesa to the Santa Maria Valley to flow from the Santa Maria Valley into the mesa. The District is concerned during periods of below average rainfall that the now freshwater flow going to the ocean could be reversed.

Depending on how the groundwater lawsuit proceeds, the courts may establish water rights and/or impose a groundwater management plan for the basin. It is possible that the present groundwater litigation will not be resolved for another three to five years.