

Michael LeBrun

From: William Kengel <wgktbh@yahoo.com>
Sent: Tuesday, August 13, 2013 12:57 PM
To: Michael LeBrun
Subject: Re: NCSD Meeting Agenda posted

Mr. LeBrun,

You are certainly entitled to your opinion and as General Manager I respect the necessity of following a consistent course of action equally applicable as best it can be to all customers, builders and other users of District services. As a local business owner of many, many years, I've experienced the same necessity in my business.

Having said that, I'll make a couple general observations:

1) Customers as a voting body do not always make the wisest choices. We saw that in Los Osos in 1972 and again in 1974 where customers voted down a sewage treatment plant that could have been built virtually free of charge with Federal grant money. Builders like myself would have installed the collection system free of charge, piece by piece as development progressed. The ensuing 40-year battle waged with County tax dollars is well known. Similar decisions by the voting residents and consumers of Nipomo area could have allowed a much more fair distribution of expenses; details are well-known, I won't belabor them.

2) The property between Tefft and Hill Streets I chose specifically for purpose of affordability. Proposed projects there both residential and commercial would have a per capita use of water about one quarter that of the District norm. Continual discussion of details surrounding use of this property, now surpassing seven years, has scarcely supported affordability or creation of jobs to the detriment of all concerned.

3) Occasionally in the normal course of business situations arise where normal procedures become unreasonable or impossible, demanding some alternative course of action. I saw that in the building of a sewer main down a bike lane with full knowledge and agreement of the District Engineer. Field conditions caused the necessity in spite of considerable added expense to me. In like manner other conditions and situations surrounding use of

this property are unusual in nature and in my opinion justify some solution other than blind following of policy. Continual discussion of details has a negative impact, serving nobody.

4) Consideration of unusual situations is one primary function of the District Board. To make a reasonable and fair decision, Board members must be made fully aware of all details causing or relative to the problem or problems at hand. This series of e-mails beginning with my message to you dated Friday, 8/9, 1:00PM, has become a thorough, in-depth and fair discussion of all aspects of problems surrounding use of this property and I request the entire series of e-mails including this e-mail be made available to Board members prior to tomorrow's hearing by whatever means you may find to be reasonably possible.

5) The recorded Road Construction Agreement is an accurate and binding description of the joint venture nature of construction of all aspects of Blume and Flint Streets. I request it also be made available to Board members for reference. Copies were presented by myself in public forum at a previous meeting.

Please confirm receipt of this message and confirmation of above requests. Thank you, Bill Kengel

From: Michael LeBrun <mlebrun@ncsd.ca.gov>
To: William Kengel <wgktbh@yahoo.com>
Sent: Tuesday, August 13, 2013 8:31 AM
Subject: RE: NCSD Meeting Agenda posted

Mr. Kengel,

I do not agree with your perspective nor logic in reaching your conclusion. The Board of Directors will consider your more broadly stated issues in item E-1 and your project specific issues in item E-2.

Respectfully,

Michael S. LeBrun, P.E.
General Manager

Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444-0326
(805) 929-1133
(805) 929-1932 fax
mlebrun@ncsd.ca.gov

CONFIDENTIALITY NOTICE: This email and any documents, files or previous email messages attached to it may contain information that is confidential or legally privileged and is for the sole use of the intended recipient(s). If you are not the intended recipient, do not read, print, or save this email. Any unauthorized review, use, disclosure or distribution of this email, its contents or the attachments, is strictly prohibited. If you are not the intended recipient, please contact the sender by telephone or reply email and destroy the original, any attachments and all copies without reading or saving.

From: William Kengel [mailto:wgktbh@yahoo.com]
Sent: Monday, August 12, 2013 8:06 PM
To: Michael LeBrun
Subject: Re: NCS D Meeting Agenda posted

Mr. LeBrun,

I understand the normal process, but how to determine the fee for a Will-Serve for a subdivision that creates lots with no proposed projects? If and when a project is proposed I would expect that project to obtain ITS, Will-Serve, and to pay fees based on degree of service necessary the same as any other project. Please understand the zoning in this area allows projects of widely varying degrees of service and fees paid to District are calculated accordingly.

I don't understand your statement that customer's money is somehow being used to provide for other new customers. To date I've expended at least \$233,000 for construction of mains plus \$32,191 non-refundable deposit. If service to the apartment project were allowed via those mains, District would realize additional payment of fees, plus revenue from sales of services.

Very soon I expect to apply for a Minor Use Permit for a project on parcel #1 fronting on Tefft. That project could generate additional fees and sales for the District.

Currently, and for a great length of time, mains have stood idle, District has failed to collect fees it could have collected and customers have paid nothing. Where is the logic in this? Please advise.

From: Michael LeBrun <mlebrun@ncsd.ca.gov>
To: William Kengel <wgktbh@yahoo.com>
Sent: Monday, August 12, 2013 4:38 PM
Subject: RE: NCS D Meeting Agenda posted

Mr. Kengel,
Thank you for the email.

There is no real confusion from the stand point of the District and its current customer/owners – when a Will Serve is issued, the District commits to serving new customers on the same level as existing customers. Therefore; the District must be sure the infrastructure and resources are in place to do just that – or the fees and bonding to cover the cost of obtaining each/both have been put in place. We MUST not use current customers money to bring on new customers and we must not allow new customers on the system if they will negatively impact our ability to serve our existing customers.

By adhering carefully to these tenets for the past 48 years the District has been able to continually support community growth and prosperity. When a community service provider fall behind in resource development the entire community

can suffer for decades. A good example is Los Osos; the CSD there over allocated water resources and failed in their efforts (yet far) to develop sewer infrastructure. Developer/builders in that area have gone under or gone elsewhere.

Sub division maps cannot be filed (completed) unless there is water to support the new future demand – that is why a Will Serve letter is required.

When the owner of the infrastructure in the proposed Blume Street makes the necessary offer and meets all other stated requirements, the District will accept and be ready to serve via this infrastructure. Until then it is private and we do not control it. As you know, it was designed and installed as part of the development project to the east of Blume and must be complete by the owners of that project. I understand this is progressing and I think we are all hopeful that this hurdle will soon be cleared.

I see no need for more written material to the Board.
Thanks,

Michael S. LeBrun, P.E.
General Manager

Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444-0326
(805) 929-1133
(805) 929-1932 fax
mlebrun@ncsd.ca.gov

CONFIDENTIALITY NOTICE: This email and any documents, files or previous email messages attached to it may contain information that is confidential or legally privileged and is for the sole use of the intended recipient(s). If you are not the intended recipient, do not read, print, or save this email. Any unauthorized review, use, disclosure or distribution of this email, its contents or the attachments, is strictly prohibited. If you are not the intended recipient, please contact the sender by telephone or reply email and destroy the original, any attachments and all copies without reading or saving.

From: William Kengel [<mailto:wgktbh@yahoo.com>]
Sent: Monday, August 12, 2013 1:57 PM
To: Michael LeBrun
Subject: Re: NCS D Meeting Agenda posted

Mr. LeBrun,

Appreciate your inclusion of Thursday's late memo. I've read the entire "E-2" report as well as "E-1" report. The quick answer would be "yes" as to this memo, but perhaps too many memos and diverse thoughts creating confusion?

In my most recent (7/15) e-mail to Peter Sevcik is the wording (item 4) "Please keep in mind we are speaking of my subdivision in general, not my apartment project." Peter's staff report is a review of my apartment project, exactly what I did not want. It takes the reader through a maze of "fixes", including new owner's engineer looking for a way to isolate his proposed use from existing mains.

The problem and item I wish the Board to review is perhaps best brought out (inadvertently) on the first page of agenda item E-1. Wording there indicates "Issuance of a Will-Serve letter commits the District, with very little recourse and no expiration, to supplying a future development." And then: "Current District policy requires a 100% deposit of fees at the time a Will Serve letter is issued---". Given the RMF and Commercial mixed-use zonings as well as various property owners, for a subdivision Will-Serve I would have to ask "fees based on what??"

These subdivisions (2689 is still valid, though not recorded) are paperwork things, dividing land up. The parcels created do not establish any degree of service until some private project is proposed. Consequently, as regards my subdivision, we asked for one service for each parcel created as a token amount to establish allowance for the Will-Serve commitment.

Were I allowed a suggestion, I would suggest the following: Construction of the mains was done as a joint venture between myself and former owner. All work was done as per District standards, inspected, and found to be complete, ready for service. Board could move to accept such mains as work completed, payment of fees to be attached to any private projects proposed via the normal District process for a project. As to offer of dedication, I am willing to make my offer, though I cannot speak for the new owner. Board should allow his offer separate from payment of fees.

At this point I am going to kick this thing back to you for reasonable suggestion. You have the un-enviable task of presenting item E-2 to the Board. The various memos I've sent indicate a completely different request from that presented by the staff report. Since agenda item E-1 is to be heard first, perhaps some discussion of potential problems inherent to a subdivision will-Serve is in order. This thing suffers from enough confusion already, what to do? Please advise.

From: Michael LeBrun <mlebrun@ncsd.ca.gov>
To: William Kengel <wgktbh@yahoo.com>
Sent: Monday, August 12, 2013 9:40 AM
Subject: RE: NCSO Meeting Agenda posted

Mr. Kengel,

The memo you dropped by the office last Thursday is provided as the first attachment in the staff report on your item. I can provide the Board the email below on Wednesday if that is your request. Please let me know.

See you Wednesday,

Michael S. LeBrun, P.E.
General Manager

Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444-0326
(805) 929-1133
(805) 929-1932 fax
mlebrun@ncsd.ca.gov

CONFIDENTIALITY NOTICE: This email and any documents, files or previous email messages attached to it may contain information that is confidential or legally privileged and is for the sole use of the intended recipient(s). If you are not the intended recipient, do not read, print, or save this email. Any unauthorized review, use, disclosure or distribution of this email, its contents or the attachments, is strictly prohibited. If you are not the intended recipient, please contact the sender by telephone or reply email and destroy the original, any attachments and all copies without reading or saving.

From: William Kengel [<mailto:wgktbh@yahoo.com>]
Sent: Friday, August 09, 2013 4:51 PM
To: Michael LeBrun
Subject: Re: NCS D Meeting Agenda posted

Mr. LeBrun,

Unfortunately, like the rest of us, Board members have schedules and though I've spoken to each Board member individually as to the true nature of the problem to be considered, it didn't quite come together in time for today's staff report. Knowing time was drawing to a close, I submitted the portion of a letter to Jim Harrison that correctly describes the issue I wish the Board to consider. Being a personal e-mail, it is a bit "breezy" for public forum. Skipping through all the details the essence follows:

"To clarify, forget about private projects on either property and look at it as two subdivisions.(Tr. 2689 & Co 06-0225) Subdivision Map Act requires both water and sewer service to each parcel of each subdivision.---My direction is to separate mains of common use in the streets from private projects they serve such that any private project on any parcel can proceed independently of any other private project.---The above is the argument that must come to the Board by way of staff report. The Board's decision would then allow any parcels currently under consideration plus any other un-named parcels as yet to be developed the use of mains, both water and sewer, within the public or proposed public rights-of-way."

My add: Current District policy ties payment of private project "buy-in" fees to offer of dedication of mains within public rights-of-way. This becomes a problem where mains serve more than one subdivision with unrelated owners, each subdivision requiring guarantee of water-sewer service to each parcel created. District Engineer's signature on 11/16/2009 on final "as built" plans depicting all mains of common usage declares such mains to be complete as to construction and inspection. At issue is not the AMOUNT OR TIMING OF USE by any private project but rather THE ALLOWANCE OF USE guaranteed by Will-Serve for the underlying subdivision.

From: Michael LeBrun <mlebrun@ncsd.ca.gov>
To: William Kengel <wgktbh@yahoo.com>
Sent: Friday, August 9, 2013 1:00 PM
Subject: NCS D Meeting Agenda posted

Mr. Kengel,
The agenda and staff reports for next week's meeting of NCS D Board of Directors has been posted to our website (ncsd.ca.gov).

Item E-2 is a discussion of your development project.

Michael S. LeBrun, P.E.
General Manager

Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444-0326
(805) 929-1133
(805) 929-1932 fax
mlebrun@ncsd.ca.gov

CONFIDENTIALITY NOTICE: This email and any documents, files or previous email messages attached to it may contain information that is confidential or legally privileged and is for the sole use of the intended recipient(s). If you are not the intended recipient, do not read, print, or save this email. Any unauthorized review, use, disclosure or distribution of this email, its contents or the attachments, is strictly prohibited. If you are not the intended recipient, please contact the sender by telephone or reply email and destroy the original, any attachments and all copies without reading or saving.