

NIPOMO COMMUNITY SERVICES DISTRICT

Serving the Community Since 1965

REGULAR MINUTES

SEPTEMBER 9, 2015, AT 9:00 A.M.

JON S. SEITZ BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

BOARD of DIRECTORS

CRAIG ARMSTRONG, PRESIDENT
DAN GADDIS, VICE PRESIDENT
BOB BLAIR, DIRECTOR
ED EBY, DIRECTOR
DAN WOODSON, DIRECTOR

PRINCIPAL STAFF

MICHAEL S. LEBRUN, GENERAL MANAGER
LISA BOGNUDA, FINANCE DIRECTOR
MICHAEL W. SEITZ, GENERAL COUNSEL
PETER SEVCIK, DIRECTOR OF ENG. & OPS.
JESSICA MATSON, BOARD CLERK

Mission Statement: The Nipomo Community Services District's mission is to provide its customers with reliable, quality, and cost-effective services now and in the future.
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A. CALL TO ORDER AND FLAG SALUTE

President Armstrong called the Regular Meeting of September 9, 2015 to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL AND PUBLIC COMMENT FOR ITEMS NOT ON AGENDA

At Roll Call, all Directors were present.

The following members of the public spoke:

Noel Heal, NCSD Customer, submitted "Demand to Cure or Correction Actions taken in Violation of the Ralph M. Brown Act".

Mike Seitz, District Legal Counsel, stated that pursuant to Government Code Section 54954.2(b), the Board of Directors, upon a 4/5 vote, could add this item to the Agenda based upon the findings that there is a need for immediate action and the need to take action "came to the attention of the local agency subsequent to the agenda being posted".

Upon the motion of Director Craig Armstrong and seconded, the Board approved adding this item to the Closed Session Agenda.

Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Blair, Woodson, Eby and Gaddis	None	None

C. PRESENTATIONS AND REPORTS

C-1) DIRECTOR OF ENGINEERING AND OPERATIONS

Update on Pump Station Reservoir Construction Timeline

Peter Sevcik, Director of Engineering and Operations, presented an update on the Pump Station Reservoir timeline. Mr. Sevcik stated that construction contract award is planned for the second meeting in February 2016.

C-2) REPORT ON PREVIOUS MEETING CLOSED SESSION

Announcement of actions, if any, taken during Closed Session at previous Board Meeting

Mike Seitz, District Legal Counsel, announced that the Board discussed Item 1.1(a) from the August 12, 2015 Regular Meeting (conference with District Legal Counsel re: pending litigation pursuant to GC §54956.9 SMVWCD VS. NCSD) in closed session, but took no reportable action.

Nipomo Community Services District
REGULAR MEETING
MINUTES

C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES, AND SEMINARS.

Receive Announcements and Reports from Directors

Director Eby

- ◇ August 13, Attended the South County Water Symposium.
- ◇ August 25, Board of Supervisors discussed the Diablo De Sal project.
- ◇ Jim Garing has been nominated for a position on WRAC.
- ◇ There will be a Local Area Formation Committee (LAFCO) meeting regarding the Paso Robles basin on September 17th.

Director Gaddis

- ◇ August 25, Board of Supervisors discussed the Diablo Desalination project and the proposed pipeline to Avila.
- ◇ September 2, Attended the the RWMG and WRAC meetings.

Director Blair

- ◇ August 13, Attended the South County Water Symposium.

Director Woodson

- ◇ Attended the South County Advisory Council (SCAC) meeting and presented NCSD Report.

Director Armstrong

- ◇ September 2, Attended WRAC meeting.

C-4) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE and FILE PRESENTATIONS AND REPORTS

There were no public comments.

Upon the motion of Director Dan Allen Gaddis and seconded, the Board unanimously approved to receive and file the presentations and reports as submitted.

Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Gaddis, Eby, Blair, Armstrong, and Woodson	None	None

D. CONSENT AGENDA

D-1) WARRANTS

There were no public comments.

Upon the motion of Director Ed Eby and seconded, the Board unanimously approved to item D-1.

Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Woodson, Blair, Woodson and Gaddis	None	None

Nipomo Community Services District
REGULAR MEETING
MINUTES

- D-2) APPROVE MINUTES OF PREVIOUS BOARD MEETINGS
 - AUGUST 12, 2015 REGULAR MEETING

The following members of the public spoke:

Noel Heal, NCSD customer, requested an explanation for the basis of placing an item on today's Closed Session Agenda.

Mike Seitz, District Legal Counsel, stated the Board has limited time to respond and that due to a preplanned vacation there would be no meeting that he could attend prior to the running of the 30 days.

Upon the motion of Director Ed Eby and seconded, the Board unanimously approved the August 12, 2015 Regular Meeting minutes.

Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Gaddis, Woodson, Blair and Armstrong	None	None

E. ADMINISTRATIVE ITEMS

- E-1) MARGARITA VALLEY RANCH DEVELOPMENT, CONSIDER REQUEST FOR INTERIM FEE RECONCILIATION [RECOMMEND CONSIDER PROPOSAL AND DIRECT STAFF]

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Mr. LeBrun answered questions from the Board.

There were no public comments.

Upon the motion of Director Blair and seconded, the Board unanimously approved the issuance of a refund to Margarita Valley Ranch Development with the findings that a final reconciliation will be completed prior to setting water meters.

Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Blair, Gaddis, Eby, Woodson, and Armstrong	None	None

- E-2) RECORDS RETENTION POLICY UPDATE [RECOMMEND ADOPT RESOLUTION APPROVING RECORDS RETENTION POLICY UPDATE]

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Mr. LeBrun answered questions from the Board.

Director Woodson suggested some edits to the retention schedule.

Director Eby suggested the policy include direction on email retention.

There were no public comments.

The Board of Directors directed Staff to make edits and suggest verbiage for email retention for consideration at a future board meeting.

President Armstrong announced that Item E-3 would be heard later in the meeting.

F. GENERAL MANAGER'S REPORT

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet.

Mr. LeBrun answered questions from the Board.

There were no public comments.

G. COMMITTEE REPORTS

There were no comments on reports.

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

There were no requests.

President Armstrong announced that the Board would go into Closed Session to consider Items I-2 and I-5 (added to agenda).

I. CLOSED SESSION ANNOUNCEMENTS

2. CONFERENCE WITH LEGAL COUNSEL: LIABILITY CLAIMS PURSUANT TO SECTION 54956.95:

Claimants: Rojas

Agency: NCSD

5. CONFERENCE WITH LEGAL COUNSEL RE: ANTICIPATED LITIGATION PURSUANT TO GC §54956.9(B): Heal

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There were no public comments.

K. ADJOURN TO CLOSED SESSION

President Armstrong adjourned to closed session at 9:48 a.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 10:04 a.m.

Mike Seitz, District Legal Counsel, announced the following:

Item 2 – The Board of Directors denied the Rojas claim.

Item 5 – The Board of Directors directed District Legal Counsel to respond to Mr. Heal in writing.

President Armstrong announced the Board would recess to Joshua Road Pump Station (805 Alta Vista Way) to conduct Supplemental Water Project Phase 1 Ribbon Cutting and Open House.

Recessed at 10:06 a.m.

President Armstrong re-opened the Board Meeting at 12:48 p.m and announced they would go into Closed Session to discuss Items I-1(a) and I-1(b).

Nipomo Community Services District
REGULAR MEETING
MINUTES

I. CLOSED SESSION ANNOUNCEMENTS

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9

- a. SMVWCD VS. NCSO (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).
- b. BENING VS. NCSO 14CV-0069

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There were no public comments.

K. ADJOURN TO CLOSED SESSION

President Armstrong adjourned to closed session at 12:49 p.m.

L. OPEN SESSION
ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:28 p.m.

Mike Seitz, District Legal Counsel, announced that the Board discussed Item I.1(a) and heard an update. The Board unanimously approved the water sales agreement with area purveyors subject to signature by purveyor parties.

Mike Seitz, District Legal Counsel, announced that the Board discussed Item I.1(b), heard an update, but took no reportable action.

President Armstrong announced that Item E-3 would be heard next.

E-3) TOWN SEWER SYSTEM RATE STUDY PRESENTATION [RECOMMEND BY MOTION AND ROLL CALL VOTE, APPROVE RATE STUDY, SET DATE FOR RATE ADOPTION HEARING, AND APPROVE NOTICE OF RATE HEARING]

Mr. Clayton Tuckfield, Rate Consultant, presented the Town Sewer Rate Study report to the Board and answered questions. Mr. Tuckfield's report recommends a 3.5% Town Sewer rate increase each year for five years.

The Finance and Audit Committee recommends a 3.2% rate increase each year for five years. The Board suggested edits to the Prop 218 Notice.

There were no public comments.

Upon the motion of Director Armstrong and seconded, the Board unanimously

- 1. *Approved the Town Sewer Rate Study;*
 - 2. *Approved the Prop 218 notice, with edits and directed staff to initiate the Proposition 218 Notice with a 3.2% rate increase; and*
 - 3. *Set 9:00 a.m., Thursday, November 12, as the date and time for the Public Hearing.*
- Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Armstrong, Woodson, Blair, Eby, and Gaddis</i>	<i>None</i>	<i>None</i>

Nipomo Community Services District
REGULAR MEETING
MINUTES

President Armstrong announced that the Board would go into Closed Session to discuss Items I-3 and I-4.

I. CLOSED SESSION ANNOUNCEMENTS

- 3. ANNUAL PERFORMANCE REVIEW OF DISTRICT LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54957
- 4. PUBLIC EMPLOYEE RELEASE/RESIGNATION PURSUANT TO GOVERNMENT CODE SECTION 54957

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There were no public comments

K. ADJOURN TO CLOSED SESSION

President Armstrong adjourned to closed session at 2:05 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 2:45 p.m.

President Armstrong announced that the Board discussed Item I.3, gave direction, but took no reportable action.

President Armstrong announced that the Board had accepted the resignation of the General Manager and formed an Ad-Hoc Committee of Directors Eby and Gaddis to lead recruitment and report back to the Board on September 30, 2015.

ADJOURN

President Armstrong adjourned the meeting at 2:47 p.m.

MEETING SUMMARY	HOURS & MINUTES
Regular Meeting	1 hour 17 minutes
Closed Session	1 hour 28 minutes
TOTAL HOURS	2 hours 48 minutes

Respectfully submitted,

Michael S. LeBrun, General Manager and Secretary to the Board

Date