

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MINUTES

**MAY 8, 2013, AT 9:00 A.M.**

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### BOARD of DIRECTORS

JAMES HARRISON, **PRESIDENT**  
LARRY VIERHEILIG, **VICE PRESIDENT**  
DAN GADDIS, **DIRECTOR**  
BOB BLAIR, **DIRECTOR**  
CRAIG ARMSTRONG, **DIRECTOR**

### PRINCIPAL STAFF

MICHAEL S. LEBRUN, **GENERAL MANAGER**  
LISA BOGNUDA, **FINANCE DIRECTOR**  
JON SEITZ, **GENERAL COUNSEL**  
PETER SEVCIK, **DIRECTOR OF ENG. & OPS.**  
MERRIE WALLRAVIN, **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.

00:00:00

#### A. CALL TO ORDER AND FLAG SALUTE

*President Harrison called the Regular Meeting of May 8, 2013, to order at 9:05 a.m. and led the flag salute.*

00:00:36

#### B. ROLL CALL

*At roll call, all board members were present.*

*President Harrison announced a moment of silence in memory of District Legal Counsel, Jon Seitz.*

*President Harrison also announced that the Board will go into closed session now and will reconvene to open session at 10:00 a.m.*

00:02:13

#### I. CLOSED SESSION ANNOUNCEMENTS

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9 SMVWCD VS. NCSD (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).

2. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVT. CODE §54956.9(b):  
Anticipated litigation - 1 case: Mesa Community Alliance

3. ANNUAL PERFORMANCE REVIEW OF DISTRICT LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54957

#### J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

*The following members of the public spoke:*

*Ed Eby, NCSD customer, commented on Director Blair recusing himself from closed session due to being part of the Mesa Community Alliance.*

*Bill Morrow, NCSD customer, stated he was against District customers paying for the plaintiff's legal fees for the law suit.*

*Mike Seitz, District Deputy Legal Counsel announced that he talked with Director Blair and Mr. Blair denies being part of the Mesa Community Alliance.*

#### K. ADJOURN TO CLOSED SESSION

*President Harrison adjourned to closed session at 9:10 a.m.*

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

*The Board came back into Open Session at 10:15 a.m.*

*Mike Seitz, District Deputy Legal Counsel, announced that the Board discussed Item One, Two, and Three listed above under closed session announcements, but took no reportable action.*

00:04:04

## C. PRESENTATIONS AND PUBLIC COMMENT

## C-1) REPORT ON APRIL 24, 2013 REGULAR MEETING CLOSED SESSION

Announcement of actions, if any, taken in Closed Session

*Mike Seitz, District Deputy Legal Counsel, announced that the Board discussed Item One (Conference with District Legal Counsel re: pending litigation pursuant to GC §54956.9 SMVWCD VS. NCSD) in closed session, but took no reportable action.*

*The Board discussed Item Two (Conference with District Legal Counsel re: anticipated litigation pursuant to GC §54956.9 MCA VS. NCSD) in closed session and authorized retention of Harriet Steiner from the Law Firm of Best Best & Krieger to represent the District in regards to the anticipated litigation.*

*The following members of the public spoke:*

*Ed Eby, NCSD customer, questioned how long the Santa Maria Valley Groundwater litigation will go on and commented on the District logging all expenses as a result of MCA litigation, for District customer's information.*

*John Snyder, Nipomo resident, commented on the Santa Maria Valley Groundwater litigation and on water being pumped unlawfully in the basin.*

00:11:36

## C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT &amp; COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES, AND SEMINARS.

Receive Announcements and Reports from Directors

Director Gaddis

- ◇ *Commented on attending the May 4 and 5, Planes for Fame Air Show at the Chino Airport.*

Director Vierheilig

- ◇ *May 1, Attended the Water Resources Advisory Council meeting.*
- ◇ *May 11 and 12, Spring Fair at the Halcyon Store.*

Director Blair

- ◇ *Commented on missing the Special Meeting on May 10.*

Director Harrison

- ◇ *May 7, Attended the Santa Barbara County Board of Supervisors meeting, with a 3-1-1 vote the County Board approved the Right-of-Way for the Supplemental Water Project.*
- ◇ *May 7, Attended the City of Santa Maria Council meeting, with a 5-0 vote the City Council approved the Wholesale Water Supply Agreement with the District.*
- ◇ *Commented on meeting with a Mr. Kengel regarding connection to the District's sewer system.*

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00:16:10

- C-3) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE and FILE PRESENTATIONS AND REPORTS

*There was no public comment.*

*Upon the motion of Director Vierheilg and seconded by Director Blair, the Board unanimously approved to receive and file the presentations and reports as submitted. Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Vierheilg, Blair, Armstrong, Gaddis, and Harrison</i>	<i>None</i>	<i>None</i>

00:16:48

D. CONSENT AGENDA

- D-1) WARRANTS

- D-2) APPROVE APRIL 24, 2013 REGULAR BOARD MEETING MINUTES

- D-3) APPROVAL OF THE ENGINEER'S LEVY REPORT AND DECLARATION OF INTENTION TO LEVY ANNUAL ASSESSMENTS FOR STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2013-2014

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

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board unanimously approved the Consent Agenda as submitted. Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Vierheilg, Armstrong, Blair, Gaddis, and Harrison</i>	<i>None</i>	<i>None</i>

**RESOLUTION NO. 2013-1304**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
GRANTING APPROVAL OF THE ANNUAL ENGINEER'S  
REPORT FOR THE STREET LANDSCAPE AND MAINTENANCE  
DISTRICT NO. 1 FOR FISCAL YEAR 2013-2014**

**RESOLUTION NO. 2013-1305**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
DECLARING ITS INTENTION TO LEVY ANNUAL ASSESSMENTS  
FOR THE STREET LANDSCAPE AND MAINTENANCE DISTRICT  
NO. 1 FOR FISCAL YEAR 2013-2014**

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E. ADMINISTRATIVE ITEMS

00:20:14

E-1) AUTHORIZATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT REVENUE CERTIFICATES OF PARTICIPATION (SUPPLEMENTAL WATER AND REFUNDING PROJECT) SERIES 2013:

- AUTHORIZE SALE OF UP TO \$9,500,000 IN REVENUE CERTIFICATES AND APPROVE THE FOLLOWING SALE DOCUMENTS:
  - A TRUST AGREEMENT
  - AN INSTALLMENT SALE AGREEMENT
  - AN AGENCY AGREEMENT
  - AN ESCROW DEPOSIT AND TRUST AGREEMENT
  - A CONTINUING DISCLOSURE AGREEMENT
  - A PRELIMINARY OFFICIAL STATEMENT
  - A BOND PURCHASE AGREEMENT

**ADJOURN TO PUBLIC FACILITIES CORPORATION**

A) ROLL CALL

NEXT RESOLUTION 2013-06

B) APPROVAL OF DOCUMENTS IN CONNECTION WITH THE SALE, EXECUTION AND DELIVERY BY NIPOMO COMMUNITY SERVICES DISTRICT REVENUE CERTIFICATES OF PARTICIPATION (SUPPLEMENTAL WATER PROJECT PHASE 1) SERIES 2013

ADOPT A RESOLUTION APPROVING

- A TRUST AGREEMENT
- AN INSTALLMENT SALE AGREEMENT
- AN ASSIGNMENT AGREEMENT
- AN AGENCY AGREEMENT
- AN ESCROW DEPOSIT AND TRUST AGREEMENT
- A PRELIMINARY OFFICIAL STATEMENT

**ADJOURN TO NCSD REGULAR MEETING**

*Mike Seitz, District Deputy Legal Counsel, recommended that the Board continue this inclusive item on a future agenda.*

*The following members of the public spoke:*

*John Snyder, Nipomo resident, commented on continuing item E-1 and questioned who's doing the illegal pumping.*

*Ed Eby, NCSD customer, questioned when the Board will consider this item and commented on the Special Meeting on Friday.*

*Upon the motion of Director Vierheilg and seconded by Director Blair, the Board unanimously approved to continue this inclusive item on a future agenda.*

*Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
Directors Vierheilg, Blair, Armstrong Gaddis, and Harrison	None	None

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00:24:18

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 was no public comment.*

00:33:04

G. COMMITTEE REPORT

*The committee reports were as presented. There was no public comment.*

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

*There were no Director's request to staff.*

**At 10:45 a.m., President Harrison announced that the Board will take a recess and reconvene at 1:00 p.m. for Item E-2.**

E-2) 2013-2014 FISCAL YEAR BUDGET DEVELOPMENT WORKSHOP

*Michael LeBrun, General Manager, reviewed the report as presented in the board packet. Lisa Bognuda, Finance Director, and Mr. LeBrun answered question from the Board.*

*There was no public comment.*

*The Board directed staff to make minor edits and set Wednesday, June 12, 2013, at 9 a.m. the Public Hearing to consider adoption of the Fiscal Year 2013-2014 Budget.*

ADJOURN

*President Harrison adjourned the meeting at 1:35 p.m.*

MEETING SUMMARY	HOURS
Regular Meeting	1.15
Closed Session	1.05
TOTAL HOURS	2.20