

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MINUTES

**MAY 14, 2014 AT 9:00 A.M.**

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### BOARD of DIRECTORS

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

### PRINCIPAL STAFF

MICHAEL S. LEBRUN, **GENERAL MANAGER**  
LISA BOGNUA, **FINANCE DIRECTOR**  
MICHAEL W. SEITZ, **GENERAL COUNSEL**  
PETER SEVCIK, **DIRECTOR OF ENG. & OPS.**  
NITA WINDSOR, **BOARD CLERK**

Mission Statement: To provide its customers with reliable, quality, and cost-effective services now and in the future.

**00:00** A. CALL TO ORDER AND FLAG SALUTE

*President Armstrong called the Regular Meeting of May 14, 2014 to order at 9:00 a.m. and led the flag salute.*

**00:02** B. ROLL CALL AND PUBLIC COMMENT FOR ITEMS NOT ON AGENDA

*At Roll Call, all Directors were present.*

*There was no public comment.*

**00:02** C. PRESENTATIONS AND REPORTS

C-1) CERTIFICATE OF APPRECIATION PRESENTED TO NIPOMO CSD BY 4<sup>TH</sup> DISTRICT COUNTY SUPERVISOR CAREN RAY  
Receive Presentation and Certificate

*San Luis Obispo County 4<sup>th</sup> District Supervisor Caren Ray presented a Certificate of Appreciation to Achievement House for their efforts with the Nipomo Chamber of Commerce on the Keep Nipomo Clean program. President Armstrong thanked Achievement House and commended their work.*

*Supervisor Ray presented a Certificate of Appreciation to the Nipomo Chamber of Commerce for their work on the Keep Nipomo Clean program. Chamber President Richard Malvarose and Executive Director Amber Wilson were in attendance to receive the Certificate from Supervisor Ray.*

*Supervisor Ray presented a Certificate of Recognition to NCSD for their efforts and support of the Keep Nipomo Clean program. (Exhibit "A"). Michael LeBrun, General Manager and President Armstrong received the Certificate from Supervisor Ray.*

**00:07** C-2) CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING  
Receive Certificate

*President Armstrong presented a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association to Nipomo Community Services District for the Fiscal year Ended June 30, 2013. President Armstrong also presented an Award of Financial Reporting Achievement from the Government Finance Officers Association to Lisa Bognuda, Finance Director.*

C-3) REPORT ON APRIL 23, 2014 REGULAR MEETING CLOSED SESSION  
Announcement of actions, if any, taken in Closed Session

*Michael Seitz, District Legal Counsel, announced that the Board discussed Item 1(a) (Conference with District Legal Counsel re: pending litigation pursuant to GC §54956.9 SMVWCD VS NCSD) in closed session, but took no reportable action.*

*Mr. Seitz reported that the Board discussed Item 2(b) (NCSD v. Troesh, et al.) in closed session, and that the Board voted 4-0-0 with one abstention approving settlement of the matter for \$100,000.00.*

*Mr. Seitz reported that the Board discussed Item 1(c) (BenIng v. NCSD) but took no reportable action.*

*Mr. Seitz reported that the Board discussed Item 2 (Conference with Legal Counsel pursuant to Govt. Code §54956.9(d)(2)&(e)(1), in closed session, but took no reportable action.*

00:10

C-4) 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 Blair

- ◇ *Will attend the CSDA Legislative Days in Sacramento on May 20 and 21 along with Director Gaddis and Director Harrison*

Director Vierheilig

- ◇ *Attended the Public Workshop at Blacklake Golf Resort on May 5*

Director Gaddis

- ◇ *Attended the SCAC Meeting on April 28*
- ◇ *Attended the Public Workshops at Blacklake Golf Resort and at the NCSD office on May 5*
- ◇ *Attended the SCAC Traffic and Circulation Committee Meeting on May 8*

Director Harrison

- ◇ *Spent Earth Day working the Fire Safe Council booth at the San Luis Obispo Botanical Garden on April 22*
- ◇ *Attended the Public Workshops at Blacklake Golf Resort and at the NCSD office on May 5*
- ◇ *Attended a Candidates Forum for the San Luis Obispo County 4<sup>th</sup> District Supervisorial race on May 7*
- ◇ *Attended the Nipomo Chamber of Commerce mixer on May 8*

Director Armstrong

- ◇ *Attended the Public Workshops at Blacklake Golf Resort and the NCSD office on May 5*
- ◇ *Attended the WRAC Meeting on May 7*

**C. PRESENTATIONS AND REPORTS (CONTINUED)**

- C-5) 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 Blair and seconded by Director Vierheilg, the Board unanimously voted to receive and file the presentations and reports as submitted.  
 Vote 5-0.*

00:14

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

**D. CONSENT AGENDA**

- D-1) WARRANTS
- D-2) APPROVE APRIL 23, 2014 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 2014-2015
- D-4) BLACKLAKE WELL #4 PUMP REPLACEMENT PROJECT ACCEPTANCE
- D-5) ADOPT RESOLUTION ACCEPTING DEED RESTRICTION FOR 989 CAMINO CABALLO, APN 091-283-014
- D-6) CONSOLIDATE 2014 DISTRICT ELECTION

*President Armstrong asked if any Director desired to pull items from the Consent Agenda or had any questions. Director Harrison requested that Item D-5 be pulled for discussion.*

*Michael LeBrun, General Manager noted one minor correction to one of the Resolutions on Item D-3.*

*Director Harrison requested clarification on warrants.*

*Upon the motion of Director Vierheilg and seconded by Director Gaddis, the Board unanimously voted to approve Consent Items D-1 through D-4 and Item D-6, as amended.*

*Vote 5-0*

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

**RESOLUTION 2014-1338  
 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  
 2014-2015**

**D. CONSENT AGENDA (CONTINUED)**

*RESOLUTION 2014-1339  
A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT GRANTING  
APPROVAL OF THE ANNUAL ENGINEER'S LEVY REPORT  
FOR THE STREET LANDSCAPE AND MAINTENANCE DISTRICT  
NO. 1 FOR FISCAL YEAR 2014-2015*

*RESOLUTION NO. 2014-1340  
A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
REQUESTING THE BOARD OF SUPERVISORS OF  
THE COUNTY OF SAN LUIS OBISPO TO  
CONSOLIDATE A GENERAL DISTRICT ELECTION  
TO BE HELD ON NOVEMBER 4, 2014, WITH THE  
STATEWIDE GENERAL ELECTION TO BE HELD ON  
THE SAME DATE PURSUANT TO SECTION 10403  
OF THE ELECTION CODE.*

00:18

*The Board then discussed Item D-5. Michael LeBrun, General Manager, Peter Sevcik, Director of Engineering and Operations, and Michael Seitz, District Legal Counsel answered questions from the Board.*

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Blair, the Board unanimously approved Item D-5 of the Consent Agenda.  
Vote 5-0.*

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

*RESOLUTION 2014-1341  
A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING DEED RESTRICTION FROM KIM ASLANIDIS  
FOR 989 CAMINO CABALLO, APN 091-283-014.*

**E. ADMINISTRATIVE ITEMS**

00:28

**E-1) AUTHORIZE TASK ORDER FOR SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM RADIO SYSTEM IMPROVEMENT PROJECT**

*Peter Sevcik, Director of Engineering and Operations, reviewed the report as presented in the Board packet. Mr. Sevcik answered questions from the Board.*

*There was no public comment.*

*Upon the motion of Director Blair and seconded by Director Vierheilig, the Board unanimously voted to approve the Resolution authorizing staff to execute task order in the amount of \$149,000.00 with Tesco Controls, Inc., and authorizing change order contingency in the amount of \$15,000.00.  
Vote 5-0.*

**E. ADMINISTRATIVE ITEMS (CONTINUED)**  
**E-1 (CONTINUED)**

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

*RESOLUTION 2014-1342  
 A RESOLUTION OF THE BOARD OF DIRECTORS OF  
 THE NIPOMO COMMUNITY SERVICES DISTRICT  
 AUTHORIZING A TASK ORDER FOR THE SUPERVISORY  
 CONTROL AND DATA ACQUISITION RADIO SYSTEM  
 IMPROVEMENT PROJECT WITH TESCO CONTROLS, INC.*

00:42

**E-2) REVIEW SOLID WASTE RATE INCREASE PROPOSED BY SOUTH COUNTY SANITARY SERVICES**

*Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Mr. LeBrun answered questions from the Board. No representative from South County Sanitary Services was present.*

*The following members of the public spoke:*

*Bill Morrow, NCSD Customer, requested clarification on the balance of the Solid Waste Fund. Michael LeBrun, General Manager, responded to Mr. Morrow's request.*

*Rick Bacon, NCSD Customer, expressed concerns over increased rates.*

*Upon the motion of Director Harrison and seconded by Director Blair, the Board unanimously voted to absorb the cost of the requested 2.05% increase in Solid Waste rates by lowering the District franchise fee.*

*Vote 5-0*

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

00:55

*As Item E-3 was scheduled to begin at approximately 10:00 a.m., the Board decided to discuss Items E-4 and E-5. However, since there were no representatives at the meeting regarding either Items E-4 or E-5, Michael Seitz, District Legal Counsel advised the Board that representatives wishing to speak before the Board regarding E-4 and E-5 may arrive as per the time frame shown on the Agenda.*

*President Armstrong announced that Items E-4 and E-5 would be discussed after Item E-3. The Board took a break from 9:59 a.m. to 10:16 a.m.*

01:16

**E-3) CONSIDER WATER FUND RATE SETTING PROCESS AND SCHEDULE**

*Michael LeBrun, General Manager, reviewed the report as presented in the Board packet, and then introduced Clayton Tuckfield, P.E., of Tuckfield & Associates, who gave a Power Point presentation regarding Supplemental Water Rate Alternatives (Exhibit "B").*

*Mr. LeBrun, Mr. Tuckfield, Michael Seitz, District Legal Counsel and Lisa Bognuda, Finance Director, answered questions from the Board.*

01:30

**E. ADMINISTRATIVE ITEMS (CONTINUED)**  
ITEM E-3 (CONTINUED)

*The following members of the public spoke:*

*Bill Kengel, NCSD Customer, commented on the cost of an acre-foot of water on the Mesa, and expressed approval of the variable approach to rates.*

*Ed Eby, NCSD Customer, commented against making a potential Proposition 218 Rate proceeding too confusing for rate-payers.*

*Rick Bacon, NCSD Customer, expressed concerns with Court mandated water allocations.*

*President Armstrong requested that Mr. Tuckfield's presentation be posted to the District website, so that each Board member can review the presentation more thoroughly.*

*Upon the motion of President Armstrong, and seconded by Director Vierheilig, the Board voted to receive the report and presentation and review for discussion at a future Board meeting.*

*Vote 4-1*

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

02:21

E-4) CONSIDER REQUEST TO PURCHASE DISTRICT WATER FOR CONSTRUCTION USE OUTSIDE THE DISTRICT BOUNDARY

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

*The following members of the public spoke:*

*Ed Eby, NCSD Customer, expressed concern over selling District water for usage outside the District boundary when a potential Stage III water shortage is possible.*

*Upon the motion of Director Harrison and seconded by Director Vierheilig, the Board voted to deny the request to purchase District water.*

*Vote 4-1*

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

E-5) CONSIDER REQUEST TO PURCHASE DISTRICT WATER FOR ANIMAL HUSBANDRY USE OUTSIDE THE DISTRICT BOUNDARY

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

**E. ADMINISTRATIVE ITEMS (CONTINUED)**

**ITEM E-5 (CONTINUED)**

*The following members of the public spoke:*

*Ed Eby, NCSA Customer, expressed similar concerns as to Item E-4.*

*Upon the motion of Director Harrison and seconded by Director Gaddis, the Board voted to deny the request for the purchase of District water.*

*Vote 4-1*

02:33

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

**E-6) CONSIDER AND VOTE PROPOSED CSDA BYLAWS UPDATE**

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

*There was no public comment.*

*Upon the motion of President Armstrong and seconded by Director Vierheilig, the Board unanimously voted to approve the proposed CSDA By-Laws and vote the District ballot.*

*Vote 5-0*

02:36

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

**E-7) CONSIDER OFFER OF WATER AND SEWER IMPROVEMENTS FOR 697 WEST TEFFT STREET**

*Michael LeBrun, General Manager, reviewed the report as presented in the Board packet, and also handed additional Project Status reports to the Board (Exhibit "C").*

*Per the Project Status reports, Mr. LeBrun outlined the outstanding items still needed by the District from Mr. Bill Kengel and Mr. David Mashayekan in order to move forward. Mr. Kengel and Mr. LeBrun answered questions from the Board. Mr. Kengel advised the Board that all outstanding conditions would be met by the next Regular Board Meeting on May 28. Mr. LeBrun advised Mr. Kengel that the District would need those conditions by May 19 in order to review thoroughly.*

02:59

I. CLOSED SESSION ANNOUNCEMENTS

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

a) SMVWCD VS. NCSD (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).

**I. CLOSED SESSION ANNOUNCEMENTS (CONTINUED)**

b) NCSD v Troesh, et al. SLOCSC# CV130175

c) Bening v NCSD SLOCSC #14CV-0069

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

Claimant: Specialty Construction

Agency: NCSD

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

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

*There was no public comment.*

03:00

K. ADJOURN TO CLOSED SESSION

*President Armstrong adjourned to closed session at 12:00 p.m.*

04:30

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

*The Board came back into Open Session at 1:30 p.m.*

*Michael LeBrun, General Manager, announced that the Board discussed Items 1(a), 1(b) and 1(c) listed above under closed session announcements, but took no reportable action.*

*Mr. LeBrun reported that the Board discussed Item 2 in closed session, and that the Board voted 5-0-0 to pay \$148,000.00 to resolve Specialty Construction, Inc.'s claim.*

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

*The Board discussed Item 3, but took no reportable action.*

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. The Board thanked Mr. LeBrun for his report.*

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

G. COMMITTEE REPORTS

MAY 7, 2014 FINANCE AND AUDIT COMMITTEE MEETING MINUTES

*Michael LeBrun, General Manager, reviewed the minutes as presented in the Board packet, and answered questions from the Board. There was no public comment.*

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

*There were no requests to Staff.*

04:50

ADJOURN

*President Armstrong adjourned the meeting at 1:50 p.m.*

MEETING SUMMARY	HOURS & MINUTES
Regular Meeting	3 hours 20 minutes
Closed Session	1 hour 30 minutes
TOTAL HOURS	4 hours 50 minutes