

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MEETING MINUTES

**JULY 9, 2014 AT 9:00 A.M.**

JON S. SEITZ 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 BOGNUDA, **FINANCE DIRECTOR**  
MICHAEL W. SEITZ, **GENERAL COUNSEL**  
PETER SEVCIK, **DIRECTOR OF ENG. & OPS.**

Mission Statement:

Provide our 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 July 9, 2014 to order at 9:03 a.m. and led the flag salute.*

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

*At Roll Call, all Board Members were present.*

#### *Public Comment*

*Richard Malvarose, President of Nipomo Chamber of Commerce, updated the Board on solidwaste programs including the recently activated Adopt-a-Highway program and a planned project with local non-profit groups.*

*Mark Westfall, District Customer and Blacklake Village HOA representative, commented on Mr. Malvarose's update and expressed concern for continued development in the area outside District service area.*

*The Board thanked both gentlemen for their comments.*

00:13

### C. PRESENTATIONS AND REPORTS

#### C-1) SAN LUIS OBISPO COUNTY SHERIFF COMMANDER JAY DONOVAN Update Report re: South County Law Enforcement and Department News

*Sargent Dave Kenitz explained that Commander Donovan was unavailable due to ongoing law enforcement activity. Sargent Kenitz summarized recent activity in the area and answered questions from the Board. The Board thanked Sargent Kenitz for his update.*

#### C-2) REPORT ON JUNE 25, 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.*

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**C-2) REPORT ON JUNE 25, 2014 REGULAR MEETING CLOSED SESSION  
(Continued)**

*Mr. Seitz reported that the Board discussed Item 1(b) (NCSD v. Troesh, et al.) in closed session, but took no reportable action.*

*Mr. Seitz reported that the Board discussed Item 1(c) (NCSD v. County SLOCSC) in closed session, but took no reportable action.*

*Mr. Seitz reported that the Board discussed Item 2 (Conference with Legal Counsel pursuant to Govt. Code §54956.95), in closed session; the Board gave direction, but took no reportable action.*

*Mr. Seitz reported that the Board discussed Item 3 (Annual Performance Review of District General Manager) pursuant to Govt. Code §54957, in closed session; the Board gave direction, but took no reportable action.*

**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 Blair

- ◇ Commented that Chevron and other oil companies produce large amounts of water as part of oil production activities.

Director Gaddis

- ◇ Attended the July 7, 2014 Parks Committee Meeting regarding proposed Jim Miller Park.

**C-4) 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 Gaddis, the Board voted to receive and file the presentations and reports C-1, C-2, and C-3 as submitted.  
Vote 5-0.*

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

00:20

D. CONSENT AGENDA

D-1) WARRANTS [RECOMMEND APPROVAL]

D-2) APPROVE JUNE 25, 2014 REGULAR BOARD MEETING MINUTES [RECOMMEND APPROVAL]

*President Armstrong stated the consent items would need to be taken separately since Director Vierheilig did not attend the June 25 Regular Meeting.*

*Michael LeBrun, General Manager, answered questions from the Board on Item D-1 Warrants.*

*Upon the motion of Director Harrison and seconded by Director Blair, the Board voted to approve Item D-1. Vote 5-0.*

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

*Upon the motion of Director Harrison and seconded by Director Armstrong, the Board voted to approve Item D-2. Vote 4-0. Director Vierheilig not qualified to vote since he was absent from meeting.*

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

E. ADMINISTRATIVE ITEMS

00:25

E-1) SOUTHLAND WWTF PHASE 1 IMPROVEMENT PROJECT PARTIAL RELEASE OF RETENTION [RECOMMEND AUTHORIZE STAFF TO RELEASE PORTION OF RETENTION]

*Peter Sevcik, Director of Engineering and Operations, reviewed the report and answered questions from the Board.*

*There was no public comment.*

*Upon the motion of Director Harrison and seconded by Director Gaddis, the Board voted to approve the release of \$287,738 in retention and begin the warranty period on July 9, 2014 for all equipment and work performed excluding the Biolac Aeration Basin. Vote 5-0.*

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

E-2) CONSIDER RESCISSION CRITERIA FOR WATER FUND LITIGATION CHARGE [CONSIDER CRITERIA AND DIRECT STAFF]

*General Manager, Michael LeBrun, reviewed the report and answered questions from the Board.*

*There was no public comment.*

*The Board took no action and directed staff to provide periodic updates on litigation costs.*

F. GENERAL MANAGER'S REPORT

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

*There was no public comment.*

G. COMMITTEE REPORTS

- June 26, 2014 Finance and Audit Committee Meeting Minutes

*Director Harrison and Director Gaddis summarized the July 7, 2014 Parks Committee Meeting.*

*Director Armstrong summarized the June 26 Finance and Audit Committee Meeting.*

*There was no public comment.*

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

*None*

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).
  - b) NCSD v Troesh et. al. SLOCSC# CV130175
  - c) NCSD v County SLOCSC #CV090010
  - d) NCSD v DeGroot SLOCSC #CV070066
2. CONFERENCE WITH LEGAL COUNSEL: LIABILITY CLAIM PURSUANT TO SECTION 54956.95:  
Claimant: Specialty Construction  
Agency: NCSD
3. ANNUAL PERFORMANCE REVIEW OF DISTRICT GENERAL MANAGER PURSUANT TO GOVERNMENT CODE SECTION 54957

00:59

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

*There was no public comment.*

K. ADJOURN TO CLOSED SESSION

*President Armstrong adjourned to closed session at 10:00 a.m.*

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02:15

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

The Board came back into Open Session at 11:15 a.m.

*Michael Seitz, District Legal Counsel, announced that the Board discussed Item 1(a)-1(d) in closed session, but took no reportable action.*

*In closed session, the Board voted 5-0 to deny Mr. DeGroot's request regarding the payment of fees required by the final judgment of CV 070066, Item 1(d).  
Vote 5-0.*

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

*Mr. Seitz reported that the Board discussed Item 2 (Conference with Legal Counsel pursuant to Govt. Code §54956.95), in closed session; the Board gave direction, but took no reportable action.*

*Mr. Seitz reported that the Board discussed Item 3 (Annual Performance Review of District General Manager) pursuant to Govt. Code §54957, in closed session; the Board completed its review.*

ADJOURN

*President Armstrong adjourned the meeting at 11:20 a.m.*

MEETING SUMMARY	HOURS & MINUTES
Regular Meeting	1 hours 5 minutes
Closed Session	1 hours 15 minutes
<b>TOTAL HOURS</b>	<b>2 hours 20 minutes</b>