

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MINUTES

APRIL 24, 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 April 24, 2013, to order at 9:00 a.m. and led the flag salute.*

00:00:41 B. ROLL CALL

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

*The following members of the public spoke:*

*John Snyder, Nipomo resident, handed the Board a Supplemental Case Management Statement regarding Nipomo Mesa Overdraft (See Exhibit "A") and commented on more water being pumped unlawfully in the basin.*

*Michael LeBrun, General Manager, announced that there were additional items for E-1 and E-2 at the back of the room.*

00:04:04 C. PRESENTATIONS AND PUBLIC COMMENT

C-1) SHERIFF COMMANDER JAMES TAYLOR

Update Report re: South County Law Enforcement and Department News

*Sargent Perry gave an update in place of Sheriff Commander James Taylor and gave an update activity report for March 2013. Sargent Perry answered questions from the Board. The Board thanked Sargent Perry for his report.*

C-2) CAL FIRE BATTALION CHIEF JAMES TULLY

Update Report re: South County Cal Fire Activity and Department News

*Captain Allen Patchett gave an update in place of Battalion Chief James Tulley and gave an update activity report for March 2013 (See Exhibit "B"). Captain Patchett answered questions from the Board. The Board thanked Captain Patchett for his report.*

00:19:51 C-3) UTILITIES SUPERINTENDENT

RE: Summary of recent activities.

*Tina Grietens, NCSU Utility Superintendent, reviewed the report as presented in the Board packet. Michael LeBrun, General Manager, and Ms. Grietens answered questions from the Board. The Board thanked Ms. Grietens for her report.*

Nipomo Community Services District  
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00:34:56

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 Vierheilig

- ◇ April 23, Attended the Blacklake Management Association meeting.
- ◇ April 28, Cal Fire will host a benefit BBQ at the Vons parking lot at 11:00 a.m. They will be serving tri-tip sandwiches.
- ◇ May 1, Water Resources Advisory Council will meet at 1:30 p.m. at the San Luis Obispo City Library.
- ◇ June 18, Blacklake Management Association will meet at 3:00 p.m.
- ◇ Commented on the approved new Calpers actuarial rate.

Director Harrison

- ◇ April 12, Attended the Nipomo Mesa Management Area meeting.
- ◇ April 13, Attended the Central Coast Greenhouse Association Open House.
- ◇ April 16, The Santa Barbara County Board of Supervisors met and delayed the NCSD's right-of-way request until May 7, 2013.
- ◇ April 17, Attended the Supplemental Water Committee meeting.
- ◇ April 17, Attended the Finance and Audit Committee meeting.
- ◇ April 21, Attended Nipomo Native Garden classes.
- ◇ April 25, Fire Safe Council will meet.

Director Gaddis

- ◇ May 4 and 5, Planes for Fame Air Show at the Chino Airport. Tickets are \$20 per person and parking is free.

Director Armstrong

- ◇ April 22, Attended South County Advisory Council meeting. SCAC approved the District's public lot application related to Supplemental Water Project.

00:44:01

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 Vierheilig and seconded by Director Armstrong, the Board unanimously approved to receive and file the presentations and reports as submitted. Vote 5-0.

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

Nipomo Community Services District  
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00:44:37

D. CONSENT AGENDA

D-1) WARRANTS

D-2) APPROVE APRIL 10, 2013 REGULAR BOARD MEETING MINUTES

D-3) SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM UPGRADE PROJECT ACCEPTANCE

D-4) RECEIVE QUARTERLY INVESTMENT REPORT

D-5) ACCEPT WATER AND SEWER IMPROVEMENTS FOR PARCEL MAP CO 05-0176

*Michael LeBrun, General Manager, and Peter Sevcik, Director of Engineering and Operations answered questions from the Board.*

*There was no public comment.*

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

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

**RESOLUTION NO. 2013-1301**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING WATER AND SEWER IMPROVEMENTS FOR  
PARCEL CO 05-0176**

E. ADMINISTRATIVE ITEMS

00:50:43

E-1) THIRD QUARTER FINANCIAL REPORT

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

*The following members of the public spoke:*

*John Snyder, Nipomo resident, commented on the third quarter financial report.*

*Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board unanimously approved the third quarter financial report for fiscal year 2012-2013 and directed staff to final the report.  
Vote 5-0.*

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

01:06:42

E-2) CONSIDER RESOLUTION DEFINING USE OF DISTRICT FUND #700 AND FUND #805 FOR SUPPLEMENTAL WATER PROJECT PHASE 1 CONSTRUCTION

*Michael LeBrun, General Manager, reviewed the report as presented in the board packet. Mr. LeBrun announced one correction to page three of the Resolution. Mike Seitz, District Deputy Legal Counsel and Mr. LeBrun answered questions from the Board.*

*The following members of the public spoke:*

*John Snyder, Nipomo resident, spoke in opposition of the District using fund 700 and 805 for Supplemental Water Project Phase I construction.*

*Bill Petrick, NCSD customer, spoke in opposition of the District using fund 700 and 805 for Supplemental Water Project Phase I construction.*

*Ed Eby, NCSD customer, spoke in support of the District using fund 700 and 805 for Supplemental Water Project Phase I construction.*

*Babak Naficy, Mesa Community Alliance Legal Counsel, stated concerns with the District using fund 805 for the Supplemental Water Project Phase I construction.*

*Mike Seitz, District Deputy Legal Counsel, commented on Mr. Naficy's concerns and pointed out the closed session agenda includes the item regarding MCA and this topic.*

*Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board adopted Resolution 2013-1302, as amended, A Resolution authorizing use of funds 700 and 805 for funding the Supplemental Water Project Phase I and making findings therefore.*

*Vote 4-1.*

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

RESOLUTION NO. 2013-1302

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING USE OF FUNDS 700 AND 805 FOR FUNDING THE SUPPLEMENTAL WATER PROJECT PHASE I AND MAKING FINDINGS THEREFORE

The Board took a break from 10:35 to 10:45 a.m.

01:31:24

E-3) CONSIDER FINANCING PLAN FOR SUPPLEMENTAL WATER PROJECT PHASE 1

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

*The following members of the public spoke:*

*John Snyder, Nipomo resident, spoke in opposition of the financing plan for Supplemental Water Project Phase I.*

*Bill Petrick, NCSD customer, spoke in opposition of the financing plan for Supplemental Water Project Phase I.*

*Babak Naficy, MCA Legal Counsel, stated concern for legal authority of Board to use reserves as proposed.*

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ITEM E-3 (CONTINUED)

*Ed Eby, NCSD customer, spoke in support of the financing plan for Supplemental Water Project Phase I.*

*Upon the motion of Director Armstrong and seconded by Director Vierheilig, the Board approved the Financing Plan for Supplemental Water Project Phase I.  
Vote 4-1.*

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

01:53:12

E-4) CONSIDER WHOLESALE WATER SUPPLY AGREEMENT FOR PURCHASE OF SUPPLEMENTAL WATER FROM CITY OF SANTA MARIA

*Michael LeBrun, General Manager, reviewed the report as presented in the board packet. Peter Sevcik, Director of Engineering and Operations, Mike Seitz, District Deputy Legal Counsel, and Mr. LeBrun answered questions from the Board.*

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Vierheilig, the Board approved the proposed Wholesale Water Supply Agreement with the City of Santa Maria.  
Vote 4-1.*

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

02:30:57

E-5) AUTHORIZE TASK ORDER FOR SOUTHLAND WWTF PHASE 1 IMPROVEMENT SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM INTEGRATION 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 Armstrong and seconded by Director Gaddis, the Board unanimously adopted Resolution 2013-1303. A Resolution authorizing a task order for the Southland Wastewater Treatment Facility Phase I Improvement Supervisory Control and Acquisition System Integration Project with Tesco Controls.  
Vote 5-0.*

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

RESOLUTION NO. 2013-1303

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING A TASK ORDER FOR THE SOUTHLAND WASTEWATER TREATMENT FACILITY PHASE I IMPROVEMENT SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM INTEGRATION PROJECT WITH TESCO CONTROLS INC.

**Nipomo Community Services District  
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02:39:43

## 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.*

02:56:54

## 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: MCA

## J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

*There was no public comment.*

## K. ADJOURN TO CLOSED SESSION

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

## L. OPEN SESSION

## ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

*The Board came back into Open Session at 1:12 p.m.*

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

*The Board discussed Item Two listed above under closed session announcements and authorized retention of Harriet Steiner from the Law Firm of Best Best & Krieger to represent the District in regards to the anticipated litigation.*

## G. COMMITTEE REPORT

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

## H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Blair

- ◇ *Addressed customer concerns regarding connection to the sewer.*

Director Gaddis

- ◇ *Questioned the costs of the Districts computer technical support.*

03:18:14

## ADJOURN

*President Harrison adjourned the meeting at 1:28 p.m.*

Nipomo Community Services District  
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| MEETING SUMMARY | HOURS |
|-----------------|-------|
| Regular Meeting | 3.15  |
| Closed Session  | 1.15  |
| TOTAL HOURS     | 4.30  |

APRIL 24, 2013

REGULAR BOARD MEETING MINUTES

EXHIBIT "A"



**E-FILED**

Apr 19, 2013 5:00 PM

David H. Yamasaki  
Chief Executive Officer/Clerk  
Superior Court of CA, County of Santa Clara  
Case #1-97-CV-770214 Filing #G-53234  
By C. Pinacate, Deputy

1 NOSSAMAN LLP  
HENRY S. WEINSTOCK (SBN 89765)  
2 777 S. Figueroa Street, Thirty-Fourth Floor  
Los Angeles, California 90017  
3 Telephone: (213) 612-7800; Facsimile: (213) 612-7801

4 Attorneys for Defendants and Cross-Complainants  
City of Arroyo Grande, City of Grover Beach,  
5 and Oceano Community Services District

6  
7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SANTA CLARA

10 SANTA MARIA VALLEY WATER  
CONSERVATION DISTRICT, a public entity,

11 Plaintiff,

12 vs.

13 CITY OF SANTA MARIA, et al.,

14 Defendants.

SANTA MARIA GROUNDWATER  
LITIGATION, LEAD CASE No. CV 770214  
(Consolidated with CV 784900, 784921,  
784926, 785509, 785511, 785515, 785522,  
785936, 786971, 787150, 787151, 787152,  
990738, 990739)

**SUPPLEMENTAL CASE MANAGEMENT  
STATEMENT RE NIPOMO MESA  
OVERDRAFT**

Date: April 26, 2013  
Time: 10:00 a.m.  
Dept.: 21

15  
16  
17 AND RELATED CROSS-ACTIONS AND  
ACTIONS CONSOLIDATED FOR ALL  
18 PURPOSES

19  
20 The Cities of Arroyo Grande, Grover Beach, and the Oceano Community Services  
21 District (3 of the 4 "Northern Cities") have joined the Joint Case Management Statement filed  
22 by the City of Santa Maria and other parties. They also wish inform the Court of an important  
23 issue that requires resolution by the parties or by the Court: There is a growing pumping  
24 depression and overdraft in the Nipomo Mesa that is depleting the groundwater supplies of  
25 both the Nipomo Mesa and Northern Cities Management Areas, and it threatens to cause  
26 seawater intrusion that may contaminate the groundwater supplies in both areas. (See  
27 attached Map of the Santa Maria Groundwater Basin, including its 3 Management Areas.)  
28

1 While this case was on appeal, the Northern Cities learned that the Nipomo Mesa  
2 overdraft harms not only water supplies in the Nipomo Mesa Management Area ("NMMA"), but  
3 that it also had eliminated the historical groundwater subsurface inflow from the NMMA to the  
4 Northern Cities Management Area ("NCMA") of approximately 1,300 acre-feet per year. As Dr.  
5 Priestaf explained in the attached letter dated June 9, 2010 to the NMMA Technical Group:

6 "The expanding groundwater depression in NMMA intercepts subsurface  
7 groundwater flow that otherwise would flow to NCMA. This contributes to lowered  
8 groundwater levels and increased risk of seawater intrusion in NCMA. The 2002  
9 DWR water balance for the NMMA area indicated a subsurface outflow from  
10 NMMA to NCMA of 1,300 AFY for the ten-year period from 1986 through 1995;  
11 the 2008 NMMA Annual Report confirmed the historical inflow from NMMA to  
12 NCMA. In both the 2008 and 2009 Annual Reports, NMMA has indicated that  
13 there is currently *no* subsurface flow to NCMA." (Letter, pages 1-2.)

14 The June 30, 2005 Settlement Stipulation, which is incorporated in the 2008 Judgment,  
15 required the Nipomo Community Services District ("NCSD") and other water purveyors in the  
16 Nipomo Mesa to purchase from the City of Santa Maria and import via a new pipeline a  
17 minimum of 2,500 acre-feet per year of supplemental water to reduce their overdraft.  
18 (Settlement Stipulation, pages 21-22.) Unfortunately, in May 2012, the Assessment District  
19 proposed by NCSD to fund this pipeline project was defeated by Nipomo Mesa property  
20 owners. Consequently, NCSD is now trying to fund and construct Phase 1 of the pipeline  
21 project, which would import only approximately 650 acre-feet per year – roughly 10% of the  
22 Nipomo Mesa overdraft (approximately 6,000 acre-feet per year) – far from what is needed to  
23 cure the problem. And to our knowledge, no Mesa parties other than NCSD are taking any  
24 action to cure the overdraft.

25 The Settlement Stipulation provides that if a minimum of 2,500 acre-feet per year of  
26 supplemental water cannot be delivered to the Nipomo Mesa, "any Stipulating Party may apply  
27 to the Court, pursuant to noticed motion, for appropriate modifications to this portion of the  
28 Stipulation and the judgment..." At this point, the above Northern Cities are not asking the


1 Court to take any action. Instead, they have asked the public water suppliers in the Nipomo  
2 Mesa to negotiate in good faith with the Northern Cities to cooperatively develop and  
3 implement solutions to the NMMA overdraft, beginning with a meeting of counsel following this  
4 Case Management Conference. If those negotiations fail, we intend to seek the Court's  
5 assistance.

6  
7 Dated: April 19, 2013

Respectfully submitted

8 NOSSAMAN LLP

9  
10  
11 By:

  
Henry S. Weinstock  
Attorneys for City of Arroyo Grande, City of  
Grover Beach, Oceano Community Services  
District

APRIL 24, 2013

REGULAR BOARD MEETING MINUTES

EXHIBIT "B"



**CAL FIRE**  
**San Luis Obispo**  
**County Fire Department**

635 N. Santa Rosa • San Luis Obispo, CA 93405  
Phone: 805-543-4244 • Fax: 805-543-4248  
[www.calfireslo.org](http://www.calfireslo.org)



*Robert Lewin, Fire Chief*

## **Nipomo Station 20 and Mesa Station 22 March 2013 Summary Report**

### **Nipomo 20**

Year to Date as of 4/23/13= 398 Calls

#### **Month of March**

123 calls  
13 Fires  
77 Medical  
10 Vehicle accidents  
23 Various other

### **Mesa 22**

#### **Month of March**

61 calls  
6 Fires  
38 Medical  
6 Vehicle accidents  
11 Various other

\*Wild Land Urban Interface Drill Suey Creek Area Saturday, May 18<sup>th</sup>

\*Annual Chipping Event May 13-23

\*Open burn season end April 30. Be careful burning with current conditions.

\*OES 273 Fire engine to be housed in Nipomo. May see Yellow fire engine around Nipomo area.