

# NIPOMO COMMUNITY SERVICES DISTRICT

*Celebrating 44 - Years of Service 1965 - 2009*

## MINUTES

**MAY 13, 2009 AT 9AM**

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### BOARD of DIRECTORS

JAMES HARRISON, **PRESIDENT**  
LARRY VIERHEILIG, **VICE PRESIDENT**  
MICHAEL WINN, **DIRECTOR**  
ED EBY, **DIRECTOR**

### PRINCIPAL STAFF

BRUCE BUEL, **GENERAL MANAGER**  
LISA BOGNUDA, **ASST. GENERAL MANAGER**  
DONNA JOHNSON, **BOARD SECRETARY**  
JON SEITZ, **GENERAL COUNSEL**  
PETER SEVCIK, **DISTRICT ENGINEER**

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 May 13, 2009 Regular Board meeting to order at 9:00 a.m. and led the flag salute.

00:00:24

#### B. ROLL CALL

At Roll Call, the following directors were present:  
Directors Eby, Winn, Vierheilg and Harrison

00:00:36

#### C. PRESENTATIONS AND PUBLIC COMMENT

##### C-1) NCSO DISTRICT ENGINEER PETER SEVCIK Update re: Project Activities in April 2009

Peter Sevcik, District Engineer, reviewed the information provided in the Board report. Mr. Sevcik answered questions from the Board. The Board thanked Mr. Sevcik for his report.

##### C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST Receive Announcements from Directors Items of District & Community Interest

###### Director Winn

April 29, 2009 – Housing Development Update at the South County Regional Center  
May 1, 2009 – DWR meeting concerning Regional Plans by the year 2020.  
Cindy Forbes, Chief of Operations, from Fresno was in attendance. The State is pushing for all mutual water company wells to be metered.  
May 9, 2009 – met with Barbara Mann, LAFCo rep and Oceano CSD director. A report on gradient will be sent to the District soon.  
May 14, 2009 – Planning Commission meeting concerning Open Space Element  
May 18, 2009 – SCAC Land Use meeting at 9:00 a.m. in the District Board room  
May 19, 2009 – SLO County Board of Supervisors will be discussing the Growth Management Ordinance and other things  
May 22, 2009 – CSDA meeting in SLO with John Wallace at 11:30 a.m.  
May 25, 2009 – SCAC (South County Advisory Committee) 6:30 p.m. in the NCSO Board Room

###### Director Eby

May meeting of LAFCo has been canceled. There will be one in June.  
May 17, 2009 – Concert, starring Dave Stamey, to benefit Dana Adobe. Tickets - \$22.00  
Noted that his water bill was 25% less than last bill. Some adjustments were made on the sprinklers.

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

- C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST  
Receive Announcements from Directors Items of District & Community Interest

Director Vierheilig

Noted that his water bill was 27% less than last year.

May 18, 2009 – meeting at 6:30 p.m. at Oceano CSD – Pier Ave off-highway vehicle access.

- C-3) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

00:26:20

D. CONSENT AGENDA

Director Vierheilig asked to pull Item D-3 for separate consideration.

- D-1) APPROVE WARRANTS

- D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 4/22/08 Regular Meeting

- D-4) APPROVAL OF THE ENGINEER'S LEVY REPORT AND DECLARATION OF INTENTION TO LEVY ANNUAL ASSESSMENTS FOR STREET LANDSCAPE MAINTENANCE DISTRICT #1 FOR FY2009-10

**RESOLUTION NO. 2009-1138**

**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 2009-2010**

**RESOLUTION NO. 2009-1139**

**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 2009-2010**

- D-5) AUTHORIZE SUBMITTAL OF "YES" VOTE ON PROPOSED CSDA BYLAWS AMENDMENT

- D-6) APPROVE QUARTERLY FINANCIAL STATEMENT

- D-7) APPROVE QUARTERLY INVESTMENT STATEMENT

Upon motion by Director Winn and seconded by Director Vierheilig, the Board unanimously approved Items D-1, 2, 4, 5, 6 & 7 of the Consent Agenda. Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Eby, Vierheilig, and Harrison	None	None

- D-3) AUTHORIZE EXECUTION OF MUTUAL ASSISTANCE AGREEMENT ENABLING MEMBERSHIP IN CALIFORNIA WATER/WASTEWATER AGENCY RESPONSE NETWORK

Director Vierheilig would like to see the resolution to include what the worst-case scenario might be. He would also like to know the financial effects of the program.

Director Eby would like to know the financial liability for the District.

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

D-3) AUTHORIZE EXECUTION OF MUTUAL ASSISTANCE AGREEMENT ENABLING MEMBERSHIP IN CALIFORNIA WATER/WASTEWATER AGENCY RESPONSE NETWORK (CONTINUED)

Peter Sevcik, District Engineer, explained some of the workings of the agreement. The Board suggested some minor changes in the agreement.

Upon motion by Director Eby and seconded by Director Winn, the Board unanimously adopted Resolution 2009-1140, as amended, authorizing participation in CALWARN. There was no public comment. Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Winn, Vierheilg, and Harrison	None	None

**RESOLUTION NO. 2009-1140**  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
AUTHORIZING PARTICIPATION IN CALWARN

00:47:26

E. ADMINISTRATIVE ITEMS

E-1) APPROVE WATERLINE INTERTIE PROJECT AND AUTHORIZE FILING OF NOTICE OF DETERMINATION

Bruce Buel, General Manager, explained that comments on the Draft Waterline Intertie Project Concept Design Report were received from the community, the Peer Review Panel, the Projects Committee and the Board. Director Eby suggested a change in Declaration #7 of the resolution.

Doug Wood, Douglas Wood and Associates and environmental consultant to the District for this project, explained that resolution covers the approved EIR. He also answered questions from the Board.

The following member of the public spoke:

Rob Saperstein, Golden State counsel, stated that he appreciates the leadership the District has taken in this project. He answered questions from the Board concerning Golden State dealing with the PUC.

Upon motion by Director Eby and seconded by Director Vierheilg, the Board unanimously adopted Resolution 2009-1141, as amended, approving the waterline intertie project. Vote 4-0.

**RESOLUTION NO. 2009-1141**  
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING CEQA FINDINGS OF FACT FOR THE NCSD INTERTIE PROJECT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; ADOPTING A PROJECT MITIGATION MONITORING PLAN; APPROVING THE NCSD WATERLINE INTERTIE PROJECT; AND AUTHORIZING THE FILING OF THE NOTICE OF DETERMINATION

YES VOTES	NO VOTES	ABSENT
Directors Eby, Vierheilg, Winn, and Harrison	None	None

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

01:05:41

E-2) REVIEW PROPOSALS AND AUTHORIZE EXECUTION OF AGREEMENT WITH RATE CONSULTANT TO PREPARE 2010-2014 WATER SYSTEM FINANCIAL PLAN AND RATE STUDY

Bruce Buel, General Manager, explained that District staff circulated a Request for Proposal to five firms to prepare a 2010-2014 water system financial plan and rate study. Three firms responded: Entrix, The Reed Group and Tuckfield & Associates. The Board discussed the proposals. There was no public comment.

Upon motion by Director Vierheilg and seconded by Director Winn, the Board unanimously agreed to authorize the General Manager to execute a standard agreement with Tuckfield & Associates to perform the tasks described in the proposal on a time-and materials basis with a not-to-exceed expenditure limit of \$25,600. There was no public comment. Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilg, Winn, Eby, and Harrison	None	None

*The Board took a break at 10:14 a.m. and resumed the meeting at 10:25 a.m.*

01:12:57

E-3) REVIEW PROPOSALS AND AUTHORIZE EXECUTION OF AGREEMENT WITH CONSTRUCTION MANAGEMENT FIRM FOR PHASE 1 OF SOUTHLAND WASTEWATER UPGRADE PROJECT

Bruce Buel, General Manager, explained that staff circulated a Request for Proposal to eleven firms to prepare a proposal for construction management during the Southland Wastewater Treatment Facility Upgrade Project. Seven firms submitted proposals: Cannon, Covello, MNS, Penfield and Smith, URS, Vanir/Wallace and WSC. The Board discussed the proposals.

The following members of the public spoke:

Kim Lindberry, MNS Engineers rep, stated that she could see no cost shifting unless there were significant changes in the work needed.

Mr. Buel explained that the reason for approving only Phase 1 of the project is to see how the project progresses and give greater flexibility.

Josh Reynolds, AECOM project engineer, has been studying alternatives on the project. He answered questions from the Board.

Upon motion by Director Vierheilg and seconded by Director Winn, the Board unanimously authorized the General Manager to execute a standard agreement with MNS to perform the tasks described in the attached proposal on a time and materials basis with a not-to-exceed expenditure limit of \$33,738 for Phase 1 tasks; and authorized staff to negotiate a proposal from MNS to perform the Phase 2 scope of work for consideration by the Board after completion of Phase 1 services. Vote 4-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilg, Winn, Eby, and Harrison	None	None

**Nipomo Community Services District  
REGULAR MEETING  
MINUTES**

01:27:35 E-4) DISCUSS OPTIONS FOR REGULATION OF MUTUAL WATER COMPANIES

Mr. Buel introduced James Markman, Special Water Counsel for the District, James Markman presented information concerning water rights for mutual water companies and public districts.

The Board discussed issues with Mr. Markman

The Board directed staff to gather information on mutual water companies for presentation to the Board. President Harrison thanked Mr. Markman for attending the NCSD meeting.

*The Board considered Item E-6 next.*

02:16:30 E-6) AUTHORIZE PURCHASE OF CONSERVE TRACK SOFTWARE AND AMEND FY08-09 BUDGET

Bruce Buel, General Manager, explained the proposal to purchase software to track water use. The Board had requested staff to account for measures implemented within the Water Conservation Program. Staff researched software programs.

Celeste Whitlow, Water Conservation Coordinator, answered questions from the Board concerning the type of system proposed.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board approved Resolution 2009-1142 authorizing the purchase, installation, and other start-up charges for the ConserveTrak water-conservation software program. Vote 3-1 with Director Harrison voting no.

YES VOTES	NO VOTES	ABSENT
Directors Winn, Vierheilig, and Eby	Director Harrison	None

**RESOLUTION NO. 2009-1142  
A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AUTHORIZING THE PURCHASE OF WATER CONSERVATION SOFTWARE  
AS A SOLE SOURCE ACQUISITION**

*The Board considered Item E-7 next.*

02:27:22 E-7) CONSIDER REQUEST FROM PRESIDENT HARRISON TO SCREEN QUAD TANKS

Bruce Buel, General Manager, explained that President Harrison had requested that the Board discuss the possibility of using vegetation to screen the water tanks at the east end of Tefft Street.

President Harrison stated that a community member had inquired what it would take to make the tanks more pleasing to the eye.

Peter Sevcik, District Engineer, explained that there are State and Federal guidelines regarding the screening of water facilities.

The Board discussed several possibilities but no action was taken. There was no public comment.

*The Board considered Item E-8 next.*

**Nipomo Community Services District**  
**REGULAR MEETING**  
**MINUTES**

02:38:33

E-8) CONSIDER REQUEST FROM DIRECTOR WINN TO DISCUSS VECTOR CONTROL BALLOT MEASURE

Bruce Buel, General Manager, explained that Director Winn requested that the Board discuss the pending Vector Control Ballot Measure proposed by SLO County.

The Board discussed the matter.

There was no public comment.

There was no action taken on this item.

*The Board considered Closed Session next.*

02:46:22

I. CLOSED SESSION ANNOUNCEMENTS

Jon Seitz, District Legal Counsel, announced the following to be considered in Closed Session:

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL PENDING LITIGATION GC§54956.9 SMVWCD VS. NCSO (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).
2. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; MARIA VISTA ESTATES VS. NCSO ET AL. (CASE NO. ND07-10362RR IN UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT, NORTHERN DIVISION)
3. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9; NCSO VS. COUNTY OF SAN LUIS OBISPO, ET AL (CASE NO. CV090010)
4. INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956 (ONE CASE)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public present to comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:00 p.m.

02:47:44

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:34 p.m.

Jon Seitz, District Legal Counsel, reported the following:

The Board heard an update on the items listed above. There was no reportable action.

*The Board considered Item E-5 next.*

02:47:55

E-5) RECEIVE AND EDIT ROUGH DRAFT STRATEGIC PLAN AND SET PROCESS FOR ADOPTION

Bruce Buel, General Manager, explained that the Board had conducted a Strategic Plan Workshop with Brent Ives in February of 2009. Mr. Ives and staff were directed to produce a rough draft Strategic Plan for the District.

Brent Ives, BHI Consulting, reviewed the rough draft Strategic Plan with the Board. The Board discussed the plan and suggested some changes to the document.

The Board directed staff to schedule adoption for the June 24, 2009 Board meeting.

**Nipomo Community Services District  
REGULAR MEETING  
MINUTES**

04:04:45

## F. MANAGER'S REPORT

Bruce Buel, General Manager, reviewed the May 8<sup>th</sup> meeting. Mr. Buel answered comments and questions from the Board. There was no public comment.

04:19:28

## G. COMMITTEE REPORT

1. April 20, 2009 Supplemental Water Project Committee Meeting
2. May 4, 2009 Water Conservation Committee Meeting

Bruce Buel, General Manager, stated that the report is as submitted. There was no public comment.

04:19:38

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

Director Vierheilig

Asked how the interviews went. (Answer: Mr. Buel stated that there is a candidate for the maintenance position who is in the hiring process. Also, there were three candidates set up to be interviewed for the inspector position.)

Mr. Nester has asked about automatic extensions of Intent-to-Serve letters. He is waiting for word from the County.

Director Eby

He asked if anyone knows what, if any, liabilities the NCSD had extended to accommodate Mr. Newman's project. (Answer: No liabilities have been incurred.)

Director Winn

Board of Supervisors looked at automatic time extensions for projects.

Asked to have a study session on the Santa Maria Valley 2008 Annual Report.

Would like more detail in the development of bio-solids regulations.

Cal-Fire requests of NCSD

- o To use the standpipe for a training day (Director Winn told them to contact the General Manager)
- o Design specs for 1" line fire sprinklers (Mr. Buel stated that some organizations are designing specs now and this District will pursue this at a later date.)

He received materials about self-regenerating water softeners (Mr. Buel will bring this subject to the next meeting.)

Pete Jenny retired from the County.

Mr. Kengel contacted Supervisor Achadjian about his project.

Director Harrison

He has a meeting with Mr. Kengel on Tuesday.

## ADJOURN

President Harrison adjourned the meeting at 3:20 p.m.