

NIPOMO COMMUNITY SERVICES DISTRICT

Celebrating 44 - Years of Service 1965 - 2009

MINUTES

NOVEMBER 18, 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**
BILL NELSON, **DIRECTOR**

PRINCIPAL STAFF

BRUCE BUEL, **GENERAL MANAGER**
LISA BOGNUDA, **ASSIST. 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 November 18, 2009 Regular Meeting of the Nipomo Community Services District to order at 9:01 a.m. and led the flag salute.

00:00:30

B. ROLL CALL

At Roll Call, all Board members were present.

00:00:45

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) NCSD DISTRICT ENGINEER PETER SEVCIK

Update re: October Activities and Sundale Well Fire Remediation

The wrong number (C-2) was stamped on the packet item presented.

Peter Sevcik, District Engineer, reviewed the items presented in the Board Packet. Mr. Sevcik answered questions from the Board.

C-2) NCSD SUPERINTENDENT TINA GRIETENS

Update re: Monthly Utility Division Activities

The wrong number (C-3) was stamped on the packet item presented.

Tina Grietens, Utility Superintendent, reviewed the items presented in the Board Packet. Ms. Grietens answered questions from the Board.

C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST

Receive Announcements from Directors Items of District & Community Interest

Director Nelson

Blacklake Community received its commendation from President Harrison for water conservation. The Board authorized bids to have a landscape person to do an audit and evaluation of the landscaping system.

Director Vierheilig

Monday, Nov. 23, 2009 – Air Pollution Control District will be reviewing draft results of their particulate matter study for the Nipomo Dunes complex, at the Arroyo Grande City Hall 5:30 p.m. An RSVP is needed.

Saturday, Dec. 5, 2009, 9 – 12 Work Day at the Nipomo Native Garden. Bring gloves, shovel and self.

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C-3) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST
Receive Announcements from Directors Items of District & Community Interest

Director Eby

There will be no LAFCO meeting November 19, 2009.

The next meeting will be December 17th.

Nov. 17, 2009, Pismo Beach approved a letter requesting the County for a larger allotment of State Water. Municipal pumping ag pumping is actually the cause of sea water intrusion.

Director Winn

Saturday, Nov 21, 2009, at 6:30 p.m. - Santa Barbara County Special District Association meeting.

Mon., Nov. 23, 2009 - APCD meeting

Mon., Nov. 23, 2009 – NMMA Technical Group meeting

Mon., Dec. 5, 2009 – 2:00 p.m. NCSO Infrastructure Committee Meeting

6:30 p.m. South County Advisory Counsel – will be talking about important issues.

Tues., Nov. 24, 2009 – SLO County Board of Supervisors will be discussing the sewer plan for Los Osos and a GPA of the County Land Use Element.

Mon., Nov. 30, 2009 at 6:30 p.m. – Informational meeting for the proposed Miller Park.

Wed. Dec. 2, 2009 at 1:30 p.m. - Water Resources Advisory Committee meeting in the SLO Library. The agenda is not yet set.

Tues. Dec. 8, 2009 – SLO Board of Supervisors Regular meeting

Director Harrison

Blacklake representative said they removed 40,000 square feet of lawn. They plan to take out the lawn between the sidewalk and the street.

Mon., Nov. 23, 2009 - NMMA TG meeting. Directors Vierheilig and Harrison will attend.

Thur. Nov. 19, 2009 - Fire Safe Counsel meeting

Rotary Club will be in the Santa Maria Parade of Lights.

Would like to have something (event, resolution, etc.) to honor Mr. Buel.

C-4) PUBLIC COMMENT ON ITEMS NOT ON AGENDA

There was no public comment.

00:45:08

D. CONSENT AGENDA

Director Harrison asked to pull Items D-3 and D-6 for separate consideration.

Lisa Bognuda, Acting General Manager, and Peter Sevcik, District Engineer, answered the Board's questions about the Warrants presented.

D-1) APPROVE WARRANTS

D-2) APPROVE BOARD MEETING MINUTES

Approve Minutes of 10/28/09 Regular Meeting

Approve Minutes of 11/4/09 Special Meeting

D-4) ACCEPT QUARTERLY FINANCIAL REPORT

D-5) ACCEPT CHICAGO GRADE WORK RE: REMOVAL OF SLUDGE

Upon motion by Director Winn and seconded by Director Eby, the Board unanimously approved Items D-1, 2, 4, 5 of the Consent Agenda. There was no public comment. Vote 5-0.

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

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D. CONSENT AGENDA (CONTINUED)

D-3) ACCEPT QUARTERLY INVESTMENT REPORT

Director Eby asked about Rabobank not paying interest on the District's checking account. He asked if this is industry standard. Ms. Bognuda answered his questions. Director Eby asked to have this subject put on the agenda for the Finance Committee. There was no public comment.

Upon motion of Director Eby and seconded by Director Winn, the Board unanimously accepted the quarterly report. Vote 5-0.

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

D-6) AUTHORIZE EXECUTION OF AGREEMENT EXTENDING TERM OF OUTSIDE USER AGREEMENT FOR VINTAGE HOMES PROJECT AT WILLOW AND VIA CONCHA

The Board asked what happens if the extension for the project is approved and by the time the water is needed, water is not available.

Jon Seitz, District Legal Counsel, answered that the District would investigate all outstanding projects to which Outside User agreements have been made. Each agreement would be handled on a case-by-case basis.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board approved Resolution 2009-1169. There was no public comment. Vote 4-1, Director Eby voting no.

**RESOLUTION NO. 2009-1169
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING AMENDMENT NO. 1 TO OUTSIDE USER AGREEMENT
FOR WATER AND SOLID WASTE SERVICE TO TRACT 2650**

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

01:06:39

E. ADMINISTRATIVE ITEMS

E-1) PARK MAINTENANCE DISTRICT NO. 1 ASSESSMENT BALLOT

Lisa Bognuda, Acting General Manager, explained that the District owns two parcels within the proposed Zone of Benefit for a park. NCSD has received conditional approval from LAFCO to operate and maintain parks within the current NCSD boundary.

A Public Hearing will be held December 16, 2009, at 9:00 a.m. Ballots are likely to be counted at that time. Assessments set are the maximum to be charged, not actual.

Upon motion by Director Winn and seconded by Director Vierheilg, the Board unanimously agreed to vote yes on both ballots and authorized the President of the Board to sign the ballots. There was no public comment. Vote 5-0.

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

01:12:08

E-2) CONSIDER GRAY TRUST (TRACT 2441) VARIANCE APPLICATION

Peter Sevcik, District Engineer, reviewed the events of the negotiations with the developer and engineers for Tract 2441. The matters have been resolved, the project has been redesigned to meet District requirements, and a variance is no longer necessary.

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E-2) CONSIDER GRAY TRUST (TRACT 2441) VARIANCE APPLICATION (CONTINUED)

Upon motion by Director Winn and seconded by Director Nelson, the Board unanimously agreed to accepted the staff report and consider the variance application no longer necessary.

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

The Board took a break at 10:22 a.m. and resumed the meeting at 10:34 a.m.

01:21:35

E-3) AUTHORIZE EXECUTION OF CHANGE ORDERS FOR SCADA SYSTEM UPGRADE DESIGN SERVICES

Peter Sevcik, District Engineer, explained that the District uses a proprietary SCADA system (IPAAC™) to remotely monitor the operation of the District's water supply wells, sanitary sewer lift stations and wastewater treatment plants. Being proprietary, changes to the system typically require custom programming that must be outsourced. Mr. Sevcik stated that the District intends to send out a Request For Proposals to procure the services of a system integrator that can implement the SCADA Upgrade Projects in accordance with the District's requirements.

Mr. Sevcik answered questions from the Board. Director Winn stated that sentry wells need to be added to the SCADA system. Mr. Sevcik noted that sentry wells are not part of the distribution system and are remote. He suggested that those wells be considered at a later time and not be included in this proposal. The Board discussed the proposal from AECOM.

The following member of the public spoke:

Bill Petrick, NCS D resident, referred to a letter he had sent to the Board outlining concerns and also stated that the consultant should define the requirements.

Upon motion by Director Eby and seconded by Director Nelson, the Board agreed to the following, with the understanding that the subsequent money is allocated to the right accounts:

Authorize the General Manager to execute two separate contract amendments/change orders with AECOM as follows: **1)** Execute a change order to the engineering design contract for the Waterline Intertie Project to develop the RFP for the Water Department SCADA Upgrade Project for the not-to-exceed amount of seventeen thousand eight hundred ninety-nine dollars (\$17,899), and **2)** Execute a change order to the engineering design contract for the Southland WWTF Upgrade Project to develop the RFP for the Sewer Department SCADA Upgrade Project for the not-to-exceed amount of fourteen thousand six hundred forty-four dollars (\$14,644).

Vote 4-1, with Director Harrison voting no.

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

02:05:11

E-4) CONSIDER HIRING A CONSULTING FIRM TO ASSIST IN THE CANDIDATE SEARCH FOR A GENERAL MANAGER

Lisa Bognuda, Acting General Manager, explained that the Board had directed staff to request proposals from consulting firms to assist in the candidate search for a General Manager. The results of the proposals are in the staff report in the Board packet.

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E-4) CONSIDER HIRING A CONSULTING FIRM TO ASSIST IN THE CANDIDATE SEARCH FOR A GENERAL MANAGER (CONTINUED)

Ms. Bognuda answered questions from the Board. The Board discussed the proposals. There was no public comment.

Upon motion by Director Eby and seconded by Director Vierheilg, the Board unanimously agreed to direct staff to negotiate a contract and prepare a budget amendment resolution to select Bob Murray & Associates, with a not-to-exceed amount of \$22,000 for the General Manager candidate search. There was no public comment. Vote 5-0.

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

The Board considered Closed Session next.

02:25:37

I. CLOSED SESSION ANNOUNCEMENTS

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

1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO 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 GC SECTION 54956.9; NCSO VS. COUNTY SLO, ET AL. (CASE #CV090010)
3. ~~INSTRUCTION TO NEGOTIATORS JON SEITZ AND LILLIAN JEWELL PURSUANT TO GOVERNMENT CODE SECTION 54956.8 FOR PURCHASE OF PARTIAL EASEMENT INTEREST IN APN 090-291-039 THROUGH 045 (OWNER: LINDA VISTA FARMS, NEGOTIATOR: (JACQUELINE FREDERICK) (Nothing to report)~~
4. INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (3 CASES)
5. PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957, DISTRICT INTERIM GENERAL MANAGER

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 11:40 a.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:17 a.m.

Jon Seitz, District Legal Counsel, announced that the Board heard an update on the items listed above except Item 3, without any reportable action.

The Board considered Item E-5 next.

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02:28:14

E-5 APPROVE THE INTERIM GENERAL MANAGER CONTRACT BETWEEN THE NIPOMO COMMUNITY SERVICES DISTRICT AND MICHAEL S. LEBRUN (SPECIAL MEETING ITEM)

Lisa Bognuda, Acting General Manager, explained that the Board had interviewed three excellent candidates for the Interim General Manager position. The Board of Directors selected Michael S. LeBrun, subject to entering into an employment contract.

Jon Seitz, District Legal Counsel, explained the amendments made to the contract.

The following member of the public spoke:

Michael S. LeBrun thanked the Board for the opportunity. He stated that he looks forward to working with the professional staff.

Upon motion by Director Winn and seconded by Director Vierheilig, the Board unanimously approved the Interim General Manager Agreement, as amended. Vote 5-0.

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

02:43:40

F. MANAGER'S REPORT

Lisa Bognuda, Acting General Manager, stated that the Manager's Report is as presented.

G. COMMITTEE REPORT

There were no committee meetings held since the last meeting.

02:46:55

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn

Would like more information about letters written to Rural Water Co. and the County about permitting of wells and transfer of water out of the NMMA and out of the Santa Maria Groundwater Basin.

Coastal sentry wells status.

Agendize a discussion of the Solid Waste Franchise Fund. Look into usage for conservation.

Investigation into Rabobank fees and interest.

Mr. Flatley of Tract 2689 has been asking about the half million dollars in fees due before the District will issue a Will-Serve letter.

Director Harrison

Jerry Bunin would like to meet to talk about paying District fees when the meters are set .

ADJOURN

President Harrison adjourned the meeting at 1:41 p.m.