

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MINUTES

APRIL 11, 2012, AT 9:00 A.M.

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### BOARD of DIRECTORS

JAMES HARRISON, PRESIDENT  
LARRY VIERHEILIG, VICE PRESIDENT  
MICHAEL WINN, DIRECTOR  
ED EBY, DIRECTOR  
DAN A. GADDIS, DIRECTOR

### PRINCIPAL STAFF

MICHAEL S. LEBRUN, GENERAL MANAGER  
LISA BOGNUDA, ASSISTANT GENERAL MANAGER  
MERRIE WALLRAVIN, SECRETARY/CLERK  
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

Vice President Vierheilig called the Regular Meeting of April 11, 2012, to order at 9:00 a.m. and led the flag salute.

00:00:40

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

At Roll Call, Directors Gaddis, Eby, Winn, and Vierheilig were present. Director Harrison was not present due to a scheduled absence.

There was no public comment.

00:02:06

#### C. PRESENTATIONS AND PUBLIC COMMENT

##### C-1) NCSD DISTRICT ENGINEER PETER SEVCIK Update Report re: Recent Activities (Written only)

Michael LeBrun, General Manager, announced that Peter Sevcik, District Engineer, is on vacation this week and will not be present for his report. Mr. LeBrun reviewed the report as presented in the Board packet. Mr. LeBrun answered questions from the Board.

##### C-2) 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 Gaddis

- ◇ April 9, 2012 – SCAC met and discussed the Nipomo Community Park Draft PEIR.
- ◇ April 23, 2012 – SCAC will meet and submit comments on the Nipomo Community Park Draft PEIR.

##### Director Eby

- ◇ April 12, 2012 – NMMA Technical Group will meet at 10:00 a.m. at the Wallace Group.
- ◇ April 19, 2012 – LAFCO will meet and discuss the final findings on the appeal of the Los Robles Del Mar annexation.

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C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES, AND SEMINARS. (Continued)

Director Winn

- ◇ April 14, 2012 – Central Coast Greenhouse Growers Association will hold their annual open door tours and sale. Native Sons Nursery will hold its one-day sale and there will be booths and a BBQ at the Edwards Barn.
- ◇ May 2, 2012 – The WRAC will hold its regular monthly meeting beginning at 1:30 p.m. in the SLO Library and will discuss Land Use Ordinance (Title 22) update and the RMS update.
- ◇ June 22, 2012 – The WRAC will sponsor a public forum on hydraulic fracturing from 9 a.m. to 4 p.m. in San Luis Obispo.

Director Vierheilig

- ◇ April 13, 2012 – NCSD's Finance and Audit Committee will meet and review the Draft Budget for 2012-2013.
- ◇ April 15, 2012 – Nipomo Native Garden will host its Spring Tour this Sunday from 12 to 3 p.m.
- ◇ April 21, 2012 – Nipomo Chamber of Commerce will host Casino Night at the Edwards Barn.
- ◇ April 25, 2012 – SLO County will present and discuss the Economic Effects of Growth Management Policies from 6 to 8 p.m. at the City County Library.

C-3) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE and FILE PRESENTATIONS AND REPORTS

The following members of the public spoke:

Michael Vitaz, NCSD customer, questioned hydraulic fracturing.

Daniel Diaz, NCSD customer, commented on NCSD's water tank over-topping.

Upon the motion of Director Eby and seconded by Director Winn, the Board unanimously approved to receive and file the presentations and reports.

Vote 4-0.

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

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00:17:24

The Board considered item E-3 next.

- E-3) CONSIDER REQUEST BY HERITAGE OAKS BANK TO RELEASE COVENANT FOR TRACT 2499

Jon Seitz, District Legal Counsel, reviewed the report as presented in the Board packet. John Fricks, Heritage Oaks Bank's Legal Counsel, Michael LeBrun, General Manager, and Mr. Seitz answered questions from the Board.

There was no public comment.

Upon the motion of Director Eby and seconded by Director Winn, the Board unanimously approved Resolution 2012-1252.  
Vote 4-0.

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

RESOLUTION NO. 2012-1252

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS RELEASING AND DISCHARGING THE DECLARATION OF RESTRICTIVE COVENANT RECORDED ON FEBRUARY 29, 2008, AS A DOCUMENT #2008010074 WITH THE SAN LUIS OBISPO COUNTY RECORDER

00:50:18

D. CONSENT AGENDA

- D-1) WARRANTS
- D-2) APPROVE MARCH 28, 2012 REGULAR BOARD MEETING MINUTES
- D-3) INITIATE PROCEEDINGS FOR ANNUAL LEVY OF ASSESSMENTS FOR STREET LANDSCAPE MAINTENANCE DISTRICT NO.1

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.

Upon the motion of Director Eby and seconded by Director Winn, the Board unanimously approved the Consent Agenda as submitted.  
Vote 4-0.

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

RESOLUTION NO. 2012-1253

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT INITIATING PROCEEDINGS FOR ANNUAL LEVY OF ASSESSMENTS FOR THE STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2012-2013 PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

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E. ADMINISTRATIVE ITEMS

00:53:10

- E-1) CONSIDER DISTRICT'S SUPPLEMENTAL WATER PROJECT ASSESSMENT BALLOTS WITH TOTAL VALUE OF \$13,476.73

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.

Upon the motion of Director Gaddis and seconded by Director Eby, the Board unanimously approved to cast votes of support on all District ballots. Vote 4-0.

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

The Board took a break from 10:00 to 10:10 a.m.

00:59:10

- E-2) CONSIDER DISTRICT BILL PAYMENT POLICY CONSIDER REQUEST FROM CUSTOMER VITAZ FOR RELIEF FROM POLICY

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Michael Vitaz, NCSD customer, Jon Seitz, District Legal Counsel, and Mr. LeBrun answered questions from the Board.

There was no public comment.

Upon the motion of Director Eby and seconded by Director Winn, the Board unanimously approved to remove all suspensions of payment arrangements and continue the current policy pending a possible change of policy in the future. Vote 4-0.

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

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

The Board directed staff to draft a policy which should include the suggestions presented from the Board.

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02:29:59

E-4) CONSIDERATION 1.5% EMPLOYEE COST OF LIVING ADJUSTMENT FOR FISCAL 2012-2013

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.

Upon the motion of Director Gaddis and seconded by Director Vierheilg, the Board approved a 1.5% Cost of Living Adjustment.  
Vote 3-1.

YES VOTES	NO VOTES	ABSENT
Directors Gaddis, Vierheilg, and Eby	Director Winn	Director Harrison

02:42:29

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 RE: PENDING LITIGATION PURSUANT TO GC SECTION 54956.9; NCSD VS. COUNTY SLO, ET AL. (CASE #CV090010)

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

Vice President Vierheilg adjourned to closed session at 12:00 p.m.

02:42:33

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

The Board came back into Open Session at 2:00 p.m.

Jon Seitz, District Legal Counsel, announced that the Board discussed items 1 and 2 listed above for closed session, but took no reportable action.

02:44:09

F. 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.

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02:48:36 G. COMMITTEE REPORT

The committee minutes were as presented. There was no public comment.

02:48:50 H. DIRECTOR'S REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Winn

- ◇ Confirming that staff did agendize the Nipomo Park Draft PEIR for possible action in the next regular Board meeting.
- ◇ Commented on a proposed CA bill that would require all drilling logs and pumping records be public documents.
- ◇ Requested the Board to revisit the District's Tampering Ordinance.

02:53:27 ADJOURN

Vice President Vierheilig adjourned the meeting at 2:05 p.m.

MEETING SUMMARY	HOURS
Regular Meeting	3:05
Closed Session	2.00
TOTAL HOURS	5:05