

NIPOMO COMMUNITY SERVICES DISTRICT

Serving the Community Since 1965

REGULAR MINUTES

MAY 9, 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

President Harrison called the Regular Meeting of May 9, 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, all Board members were present.

There was no public comment.

00:02:09

C. PRESENTATIONS AND PUBLIC COMMENT

C-1) NCSD DISTRICT ENGINEER PETER SEVCIK Update Report re: Recent Activities

Peter Sevcik, District Engineer, reviewed the report as presented in the Board packet. Michael LeBrun, General Manager, and Mr. Sevcik answered questions from the Board. The Board thanked Mr. Sevcik for his report.

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 Eby

- ◇ April 30, 2012 – NMMA Technical Group met and released its Annual Report.
- ◇ May 18, 2012 – SLO County CSDA chapter will meet at 11:30 a.m.
- ◇ June 9, 2012 – Animals in Need Fund will host Art for Animals from 5 to 9 p.m. at the Edwards Barn.

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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

- ◇ May 2, 2012 – The WRAC met
- ◇ May 2, 2012 – SLOCOG met in the afternoon and discussed bus transportation in the South County.
- ◇ May 18, 2012 – SLO County CSDA Chapter will meet at 11:30 a.m.
- ◇ May 24, 2012 – Director Harrison, Director Winn, and staff will tour the Guadalupe Wastewater Facility.
- ◇ June 6, 2012 – The WRAC will hear a presentation from Spanish Springs proposed development.
- ◇ 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.
- ◇ July 9, 2012 – The WRAC will have a special meeting.
- ◇ July 24, 2012 – A public forum on hydraulic fracturing will be held in Long Beach.

Director Vierheilig

- ◇ May 14, 2012 – NCSD's Finance and Audit Committee will meet and review the Draft Budget for 2012-2013.
- ◇ July 23, 2012 – Comments for the County's Green Building Ordinance, Title 19, are due.

Director Harrison

- ◇ Confirming the date for ethics training in Templeton.

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:

Mary Scarbrough, NCSD customer, questioned hydraulic fracturing.

Director Winn assured Ms. Scarbrough's no "fracking" was being contemplated.

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

Vote 5-0.

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

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00:54:34

D. CONSENT AGENDA

D-1) WARRANTS

D-2) APPROVE APRIL 25, 2012 REGULAR BOARD MEETING MINUTES

D-3) APPROVAL OF THE ENGINEER'S LEVY REPORT AND DECLARATION OF INTENTION TO LEVY ANNUAL ASSESSMENTS FOR STREET LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 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 Eby and seconded by Director Vierheilg, the Board unanimously approved Items D-1 and D-3, as submitted.

Vote 5-0.

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

RESOLUTION NO. 2012-1255

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 2012-2013

RESOLUTION NO. 2012-1256

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 2012-2013

Item D-2

Upon the motion of Director Eby and seconded by Director Vierheilg, the Board approved Item D-2, as amended.

Vote 4-1.

Director Gaddis abstained due to lack of attendance.

(Director Gaddis abstained, pursuant to section 2.9 of the NCSD's by-laws; an abstained vote is counted as a no vote.)

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

The Board considered Item F next.

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01:01:06

F. MANAGER'S REPORT

Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Jon Seitz, District Legal Counsel, and Mr. LeBrun answered questions from the Board. There was no public comment.

01:28:22

G. COMMITTEE REPORT

Ad Hoc Committee for Education and Outreach.

There was no public comment.

H. DIRECTOR'S REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

There were no requests to staff.

There was no public comment.

The Board took a break from 10:40 to 10:50 a.m.

01:36:58

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)
3. CONFERENCE WITH LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC SECTION 54956.9, WHITLOW/NCSD (CASE # E20112E1116-00-APS FILED WITH THE DEPARTMENT OF FAIR HOUSING AND EMPLOYMENT)
4. ANNUAL PERFORMANCE REVIEW OF DISTRICT LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54957

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public comment.

K. ADJOURN TO CLOSED SESSION

President Harrison adjourned to closed session at 10:53 a.m.

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01:38:09

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

The Board came back into Open Session at 1:00 p.m.

Jon Seitz, District Legal Counsel, announced that the Board discussed items 1, 2, and 3, listed above for closed session, but took no reportable action. The Board will continue Item 4, listed above for closed session, on the next regular Board meeting.

1:40:10

President Harrison opened the Public Hearing at 1:03 p.m.

Michael LeBrun, General Manager, introduced the Board, staff, and consultants. He announced the Public Hearing process.

E. ADMINISTRATIVE ITEMS

E-1) PUBLIC HEARING RELATED TO FORMATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT ASSESSMENT DISTRICT NO. 2012-1 (SUPPLEMENTAL WATER PROJECT)

A. RECEIVE PRESENTATION FROM ASSESSMENT ENGINEER

B. OPEN PUBLIC HEARING

- RECEIVE PUBLIC COMMENTS
- RECEIVE ASSESSMENT BALLOTS NOT PREVIOUSLY DELIVERED TO THE DISTRICT/PROVIDE OPPORTUNITY FOR PROPERTY OWNERS TO AMEND PREVIOUSLY DELIVERED ASSESSMENT BALLOTS

C. CLOSE PUBLIC HEARING AND ORDER TABULATION OF BALLOTS

Kari Wagner, Assessment Engineer, reviewed the May 9, 2012, memorandum. Ms. Wagner answered questions from the Board.

President Harrison opened public comment.

The following members of the public spoke:

Valerie Williams, NCSD property owner, spoke for the project and requested to raise the benefit units for her two parcels.

Jon Seitz, District Legal Counsel, and Maryann Goodkind, Esq., clarified the Board's next direction.

Ms. Wagner answered questions from the Board.

President Harrison asked for public comment on this specific request.

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- E-1) PUBLIC HEARING RELATED TO FORMATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT ASSESSMENT DISTRICT NO. 2012-1 (SUPPLEMENTAL WATER PROJECT)
 - A. RECEIVE PRESENTATION FROM ASSESSMENT ENGINEER
 - B. OPEN PUBLIC HEARING
 - RECEIVE PUBLIC COMMENTS
 - RECEIVE ASSESSMENT BALLOTS NOT PREVIOUSLY DELIVERED TO THE DISTRICT/PROVIDE OPPORTUNITY FOR PROPERTY OWNERS TO AMEND PREVIOUSLY DELIVERED ASSESSMENT BALLOTS
 - C. CLOSE PUBLIC HEARING AND ORDER TABULATION OF BALLOTS (Continued)

The following member of the public spoke:

John Snyder, Nipomo resident, spoke against the project and commented on the effects of changing benefit units now.

Kari Wagner, Assessment Engineer, commented on Mr. Snyder's comments.

Director Eby commented on Mr. Snyder's comments.

Upon the motion of Director Winn and seconded by Director Vierheilg, the Board unanimously approved to raise water allocations for parcels 092-572-016 and 092-572-017.

Vote 5-0.

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

Sam Scarbrough, NCSD customer, spoke for the project and commented on the rare supply of water in California.

John Snyder, Nipomo resident, spoke against the project and commented on the assessment roll.

Dave Stevenson, Rural Water Company customer, had a question on page 39 of the Engineer's Report.

John Cliff, NCSD customer, questioned the benefit units on the 3 Mesa View Estates drainage basins.

Pat Eby, Woodlands Mutual Water Company customer, spoke against the project and commented on the Engineer's Report/Roll.

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- E-1) PUBLIC HEARING RELATED TO FORMATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT ASSESSMENT DISTRICT NO. 2012-1 (SUPPLEMENTAL WATER PROJECT)
- A. RECEIVE PRESENTATION FROM ASSESSMENT ENGINEER
 - B. OPEN PUBLIC HEARING
 - RECEIVE PUBLIC COMMENTS
 - RECEIVE ASSESSMENT BALLOTS NOT PREVIOUSLY DELIVERED TO THE DISTRICT/PROVIDE OPPORTUNITY FOR PROPERTY OWNERS TO AMEND PREVIOUSLY DELIVERED ASSESSMENT BALLOTS
 - C. CLOSE PUBLIC HEARING AND ORDER TABULATION OF BALLOTS (Continued)

John Carson, NCSO customer, commented on the need for water and had concerns about the management of water.

George Newman, NCSO property owner, spoke against the Board increasing benefit units today.

Terry Benevedo, NCSO customer commented on the importance and limit of water, but had concerns of where the funds go.

Ken Thomas, Golden State Water Company customer, spoke against the project and stated that new developers should pay the costs.

Roanna Holm, NCSO customer, had question and concerns about the project.

Jon Seitz, District Legal Counsel, announced that today's mail has just arrived. Mr. Seitz handed all ballots to the Assessment Engineer.

Norman Jost, NCSO customer, questioned if the farmers are paying any portion of the project.

Steven Rober, Golden State Water Company customer, had questions about the Engineer's Report and questions about the project.

Dan Orgo, Golden State Water Company customer, commented on the need of water and had concerns about the future.

Bill Petrick, NCSO customer, spoke against the project and commented on other alternatives.

Phyllis Vargas, NCSO property owner, questioned new construction with the need of water and commented on other alternatives.

President Harrison closed public comment at 2:05 p.m.

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- E-1) PUBLIC HEARING RELATED TO FORMATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT ASSESSMENT DISTRICT NO. 2012-1 (SUPPLEMENTAL WATER PROJECT)
 - A. RECEIVE PRESENTATION FROM ASSESSMENT ENGINEER
 - B. OPEN PUBLIC HEARING
 - RECEIVE PUBLIC COMMENTS
 - RECEIVE ASSESSMENT BALLOTS NOT PREVIOUSLY DELIVERED TO THE DISTRICT/PROVIDE OPPORTUNITY FOR PROPERTY OWNERS TO AMEND PREVIOUSLY DELIVERED ASSESSMENT BALLOTS
 - C. CLOSE PUBLIC HEARING AND ORDER TABULATION OF BALLOTS (Continued)

Kari Wagner, Assessment Engineer, Michael LeBrun, General Manager, and Jon Seitz, District Legal Counsel, answered questions from public comment.

Kari Wagner, Assessment Engineer, answered questions from the Board.

Upon the motion of Director Eby and seconded by Director Gaddis, the Board directed staff to make the following changes:

- The May 9, 2012 amended Engineer's Report.
- Increase the benefit assignments for Valerie Williams' parcels, 092-572-016 and 092-572-017.
- Change the Mesa View Estates three drainage basins benefit assignment to zero.

And to include these changes in the final Engineer's report, if no majority protest exists for the assessment district.

Vote 4-1.

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

The Board took a break from 2:50 to 2:55 p.m.

President Harrison announced the last call for all ballots to be submitted.

President Harrison then announced:

"At the close of this meeting, under the direction of the Secretary, and in view of the public, we ask that the assessment ballots be tabulated today until 9 p.m. and continued tomorrow May 10, 2012, until completed. The tabulation of the ballots will be conducted in the Board Room. The Secretary will announce if a majority protest exists at the special meeting scheduled for tomorrow, May 10, 2012, at 3 p.m."

President Harrison adjourned the meeting at 3:00 p.m.

MEETING SUMMARY	HOURS
Regular Meeting	4.00
Closed Session	2.00
TOTAL HOURS	6.00